

CITY OF CORAL GABLES
PLANNING AND ZONING BOARD WORKSHOP
VERBATIM TRANSCRIPT

CORAL GABLES CITY COMMISSION CHAMBERS
405 BILTMORE WAY, CORAL GABLES
NOVEMBER 17, 2004, 4:20 P.M.

Board Members Present:

Cristina Moreno, Chairwoman
Tony Gonzalez
Tom Korge
Bill Mayville
Felix Pardo
Michael Steffens

City Staff:

Eric Riel, Jr., Planning Director
Walter Carlson, Assistant Planning Director
Richard Cannone, Principal Planner
William Carlson, Parking Director
Jill Menendez-Duran, Administrative Assistant

Also participating:

Charles Siemon, Legal Consultant
Maurice Donsky, Chairman, Parking Advisory Board

Public Speakers:

Phyllis Saldarriaga
Lucia Dougherty, Esq.,
Of Greenberg Traurig,
On behalf of George de Guardiola.

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1 THEREUPON:

2 The following proceedings were had:

3 CHAIRWOMAN MORENO: Good afternoon. I
4 think I'm missing Mr. Riel. I'd better wait.

5 Are we ready, Mr. Riel?

6 MR. RIEL: Yes.

7 CHAIRWOMAN MORENO: Could we have the roll
8 call, please?

9 MS. MENENDEZ-DURAN: Tony Gonzalez?

10 Manny Kadre?

11 Tom Korge?

12 MR. KORGE: Present.

13 MS. MENENDEZ-DURAN: Bill Mayville?

14 Felix Pardo?

15 MR. PARDO: Here.

16 MS. MENENDEZ-DURAN: Michael Steffens?

17 MR. STEFFENS: Here.

18 MS. MENENDEZ-DURAN: Cristina Moreno?

19 CHAIRWOMAN MORENO: Here.

20 I believe we need to defer the minutes,
21 because I was not present and therefore there will
22 not be sufficient votes to approve them.

23 MR. PARDO: Until the end of the year.

24 CHAIRWOMAN MORENO: So we will start with
25 the Staff presentation, Mr. Riel.

1 MR. RIEL: Okay.

2 CHAIRWOMAN MORENO: I have been asked to
3 focus first on parking, so we can address that and
4 let the Parking Advisory Board personnel speak, as
5 well as Mr. Carlson, so --

6 MR. RIEL: Okay.

7 CHAIRWOMAN MORENO: -- if we could do that
8 first.

9 MR. RIEL: Let me, just for clarification
10 purposes -- In front of you, you have the matrix
11 which is the same matrix that we worked from at the
12 November 10th meeting. We did not update it, given
13 the fact that the 10th meeting was last week and we
14 did not have an opportunity to update it. So we're
15 going to be working from that this evening, as well.

16 We do have updated comment sheets, which
17 include all the comments received up until today, on
18 the small yellow sheet there.

19 CHAIRWOMAN MORENO: I'm sorry, I do not have
20 the matrix.

21 MR. RIEL: The matrix? We've got plenty of
22 them.

23 CHAIRWOMAN MORENO: Thank you, Eric.

24 MR. KORGE: The added things are on Page 6.

25 MR. RIEL: As you indicated, Madam

1 Chairman, we'd like to start off -- kind of take
2 things out of order this evening. We completed
3 discussion on Policy 4, on Page 3.

4 What I'd like to do is go ahead and jump to
5 Page 6, under Policy 9, Miscellaneous, and talk about
6 the parking.

7 What you have in front of you, also, is the
8 sets of the two meetings, which I went to the Parking
9 Advisory Board, of September 30th and October 28th,
10 but what we -- what I've done is, in the third column
11 on Page 6, you'll note, at the end of the column and
12 proceeding on to the next page, is a summary of
13 basically five bullets, in terms of what the Parking
14 Advisory Board had recommended. And we do have the
15 Parking Director here and the Parking Advisory Board
16 Chairperson here, to also answer any questions you
17 might have.

18 So, with that, what I'll do is, I'll go
19 ahead and turn it over to Charlie Siemon to kind of
20 give you an overview in terms of what we had proposed
21 in terms of the parking.

22 MR. SIEMON: Thank you. For the record,
23 Charles Siemon, of Boca Raton, Florida.

24 In our original recommendation, as we, I
25 think, told you in the first interview, we made very

1 minor changes to the parking requirements. We added
2 some additional standards that there was no standard
3 for and felt that that was appropriate. We increased
4 a couple small recommendations, increasing for
5 individual uses, and we recommended deleting, or
6 deleted, the shared parking provisions, because there
7 was widespread concern that they were not
8 successfully achieving the community's objective.

9 We did not address, in the CBD, the major
10 commercial districts' additional parking requirements
11 to remediate what was currently the concern about
12 commercial parking in residential neighborhoods
13 adjacent.

14 And subsequent to that meeting, the Parking
15 Advisory Board has come forward with a series of
16 recommendations, and we'd like to have those
17 presented at this time.

18 MR. RIEL: If you want, I can go through
19 them. Basically, they -- the Board did not support
20 shared parking or the use of shared parking in any
21 form.

22 In terms of reduced parking requirements for
23 smaller restaurants, City-wide, they requested
24 additional information from Staff. They asked Staff
25 to look into a sliding scale, where small restaurants

1 are perhaps relieved of parking and larger type
2 restaurants have to provide the parking required per
3 Code, and they also asked us to look into an impact
4 parking fee, some type of a system for basically a
5 payment of -- in lieu of providing for parking.

6 They supported no parking requirements for
7 commercial properties of less than 1.25 FAR in the
8 CBD, and then in terms of City-wide parking
9 requirements for retail commercial establishments,
10 the Board supported the elimination of the reduced
11 parking requirements for retail establishments in the
12 CBD. Basically, the current Code allows for a
13 reduction of parking requirements for commercial
14 entities in the CBD. Basically, what we're saying
15 is, just the same requirements, whether in the CBD or
16 outside the CBD.

17 And that's, in summary, the discussion, and
18 obviously, they can --

19 CHAIRWOMAN MORENO: I'd like to ask Mr.
20 Donsky come up, if he has any comments or can explain
21 further, the Board's requirements.

22 MR. DONSKY: Hi. My name is Maurice Donsky,
23 and I am the Chairman of the Parking Advisory Board,
24 and yes, Mr. Riel did visit us on two occasions, and
25 each time he requested that we visit a certain amount

1 of issues that were pertinent to your revision of the
2 Code, and it would seem to us that, number one,
3 shared parking really -- we couldn't get a handle on
4 it, because we didn't know who's going to -- you
5 know, a developer wants shared parking because it
6 means, of course, less parking requirements for them
7 to put into their project.

8 We couldn't really get a handle on what
9 percentage, who's going to be there, when they're
10 going to be there, what happens if people come back
11 and their parking is not available, and so we really
12 felt that shared parking, at this juncture, until we
13 get a better handle on it, should (sic) be considered
14 in how much parking a developer needs in a certain
15 project.

16 What also concerned us was the -- in a
17 commercial project, whether it's -- primarily in the
18 CBD, how many parking spaces per gross square
19 footage, and I believe now it's one for every 350.
20 It concerned us, because we realized that's been in
21 the Code for many, many years, and it's not -- in our
22 opinion, wasn't realistic, and we thought it should
23 be reduced somewhere to 300 or in that vicinity. I
24 believe now, under the Code, it's still one -- or
25 even the proposed draft, it's still one for 350

1 within the CBD.

2 We also felt that under -- the CBD and the
3 not CBD should be treated equally. Why give favored
4 status to the CBD, as far as parking requirements go,
5 was -- it behooved (sic) us.

6 One of the big problems we did have and
7 that -- as you all know, parking is a horrendous
8 problem. We get a lot of issues that come before us.
9 It's a no-win situation, because it is one the great
10 problems that we have in the Gables, but we call it
11 the Houston's problem, and that is where a business
12 will come in, into the CBD, take the same footprint
13 that was there before, let's assume it's a shoe
14 store, and put a restaurant in and require no
15 additional parking. And it affects us, because where
16 are those people going to park? And so that was
17 something that we have wrestled with.

18 Again, that's something that you have to
19 deal with in your Code revision. We don't know the
20 answer to that, but it is a problem, because we don't
21 want to restrict restaurants or that type of
22 business, which is labor-intensive, from moving into
23 the Gables or the Mile, because we realize
24 restaurants are a trigger to other businesses. But
25 at the same time, if you have a few of those type of

1 businesses come in that don't require additional
2 parking, it is a problem for us in dealing with it.

3 So these are the things that we discussed,
4 in addition to what Mr. Riel read to you, that are
5 concerns to us.

6 The other thing that concerns us, too, is
7 the Mediterranean Ordinance. What we're doing, the
8 Gables is giving additional parking for using
9 Mediterranean design, but the question is, where are
10 these people going to park? It's nice that they put
11 up a Mediterranean building. You still have an extra
12 floor of people who are going to be there. The
13 question is, where are they going to park?

14 So these are the things that have concerned
15 us, and we raised these in our meeting with Mr. Riel,
16 and if you have any questions for us that we have
17 discussed -- I have to tell you, I don't think any of
18 us went through your proposal with a fine-toothed
19 comb, to be honest with you. When Mr. Riel came, he
20 gave us some parameters, gave us some issues, and
21 asked us what we thought. We discussed it, and
22 almost every case, we voted on it unanimously. It
23 was a unanimous vote of the Parking Advisory Board
24 for what Mr. Riel has brought before you.

25 So, if there's anything that we could answer

1 for you, myself or Mr. Carlton -- Mr. Carlson, I
2 would be happy to.

3 CHAIRWOMAN MORENO: Have you discussed -- I
4 see one of the proposals is an impact parking fee.

5 MR. DONSKY: Yeah.

6 CHAIRWOMAN MORENO: Have you discussed that
7 at all or --

8 MR. DONSKY: We did, and we thought that, if
9 it has to be done where we have to give parking to a
10 developer or even a small business, that in order to
11 lessen the impact on the neighborhood, an impact fee
12 should be imposed, and that impact fee should be put
13 into an earmarked fund, not into the general fund,
14 but into an earmarked fund for the development of
15 additional parking garages, so it doesn't disappear.
16 Too many times, the money seems to go away, and when
17 it comes time to the fact that we need additional --
18 and we will need additional garages. Just look what
19 happened on Andalusia, where they wanted to privatize
20 the parking garages, and the question, of course, you
21 know, came up, well, what happens when we need more
22 parking, if it's a multi-use building? Where are we
23 going to get the parking?

24 So we have the same problem. If we allow
25 these people -- and in most cases, in many cases,

1 it's a proper allowance -- where are the people going
2 to park? And if we don't have the extra money to put
3 into parking garages, well, then we fall into the
4 same trap. So that was our position.

5 CHAIRWOMAN MORENO: Has any presentation
6 been made to you -- I know that the City of Miami
7 permits developers, instead of providing parking on
8 their premises, to purchase spots or to lease spots
9 in City-owned garages, thereby financing the
10 City-owned garages.

11 Have you considered that at all, or do you
12 know more about it than I do, which is very sketchy
13 information?

14 MR. DONSKY: Well, maybe Mr. Carlson
15 can fill us in. I know we touched on it, but I think
16 he can fill us in more.

17 CHAIRWOMAN MORENO: Great.

18 MR. WILLIAM CARLSON: Will you present the
19 question again, please?

20 CHAIRWOMAN MORENO: Yes. I know, and as I
21 said, my knowledge is very sketchy, but that in the
22 City of Miami, a property owner is allowed to build a
23 building and provide less than their required parking
24 if they're able to lease parking spaces in a
25 City-owned parking garage, and that way they finance

1 the building of parking garages.

2 Do you know anything more about it than I
3 do? I don't really know how it works.

4 MR. WILLIAM CARLSON: If, in fact, a
5 business can find parking availability in a City
6 parking garage within, I believe, 500 feet of the
7 location, and it's sufficient to -- with what they
8 have plus what they're able to lease from the City,
9 that's acceptable, but that's a Building & Zoning
10 requirement.

11 CHAIRWOMAN MORENO: Would that be --

12 MR. WILLIAM CARLSON: And they can use
13 space, meaning permit space --

14 CHAIRWOMAN MORENO: Uh-huh.

15 MR. WILLIAM CARLSON: -- to meet that
16 requirement. I can tell you that it's been done two,
17 three -- Very, very seldom is the issue raised.

18 CHAIRWOMAN MORENO: Would that be a way of
19 financing additional parking garages to meet our
20 needs and not -- I think one of the problems we've
21 seen before us is the tremendous massing that occurs
22 when you impose significant parking requirements, and
23 maybe the architects can help me out here, but
24 sometimes -- I know Michael has said he wants to keep
25 the exemption for the small buildings --

1 (Thereupon, Mr. Gonzalez joined the Board.)

2 CHAIRWOMAN MORENO: -- because otherwise
3 you're going to mass them up by adding the parking in
4 those buildings, but you still need to provide
5 parking for them some way, and we need to find a way
6 to finance that parking.

7 MR. WILLIAM CARLSON: The significance of
8 the issue comes down to whether we have sufficient
9 parking availability, permit-wise, that we're able to
10 absorb them into that garage without creating a
11 shortfall of parking for others.

12 If, in fact, by providing that parking, we
13 are creating a serious impact on parking
14 availability, then I would not approve it.

15 MR. PARDO: Bill, it's a question of a
16 constant stream of revenue for you, a guaranteed
17 stream, when you do --

18 MR. WILLIAM CARLSON: From a permit
19 perspective?

20 MR. PARDO: From a permit perspective.

21 MR. WILLIAM CARLSON: Absolutely.

22 MR. PARDO: It doesn't add any parking for
23 you.

24 MR. WILLIAM CARLSON: Exactly.

25 MR. PARDO: It simply is reserving that

1 space for someone that's already paid for it, whether
2 the car is there or not.

3 MR. WILLIAM CARLSON: Right. If, in fact,
4 that concept were to become a general positioning, it
5 would definitely be a negative impact to the parking
6 system.

7 CHAIRWOMAN MORENO: Wouldn't it help you
8 finance the construction of additional parking?

9 MR. WILLIAM CARLSON: But we're -- If, in
10 fact, we have an effective usership of the permit
11 parking, we're getting that revenue, anyway, and
12 we're providing that parking to an employee base that
13 needs to have, you know, a parking availability in
14 order to come into the City and develop business, and
15 if we get -- if we do too much of utilizing what is
16 our permit availability to -- in order for the
17 developer to get around providing the parking
18 on-site, it can, in fact, negatively affect the
19 parking.

20 MR. PARDO: Mr. Donsky, you mentioned the
21 Mediterranean Ordinance. Didn't we take out any
22 reduction in parking, quite a while ago?

23 MR. RIEL: Yes.

24 MR. PARDO: So the Mediterranean does not
25 give you a bonus anymore. That's in the past.

1 MR. DONSKY: Thank you.

2 MR. PARDO: Okay, and --

3 MR. STEFFENS: I -- Go ahead.

4 CHAIRWOMAN MORENO: I don't think he
5 understood my question.

6 MR. STEFFENS: Yeah, I think what Cristina
7 was getting at, one of the things we want to try to
8 encourage is people to build smaller buildings and
9 people to keep smaller buildings, and right now
10 you're allowed to build 1.25 FAR in the CBD without
11 providing any parking. You can use an existing
12 building in the CBD, say, that was a shoe store, and
13 turn it into a restaurant without providing any
14 additional parking.

15 MR. WILLIAM CARLSON: Uh-huh.

16 MR. STEFFENS: To be able to maximize the
17 use of those properties and that space, and to
18 provide parking which would allow to you maximize
19 that, you'd have to assemble a group of properties
20 and build a big building, eight stories, 12 stories,
21 16 stories, so you can accommodate five or six levels
22 of parking and then whatever else you wanted to
23 accommodate.

24 So by encouraging -- by requiring people to
25 provide parking, we're saying, "Okay, the only

1 solution to this is to build bigger buildings."

2 What we want to try to do is to encourage
3 people to keep the small buildings or to build other
4 new small buildings and, you know, maybe not provide
5 all the parking. So how do we balance these two
6 needs and requirements? The City has parking that
7 they're building that is supposedly for -- I would
8 assume for the smaller buildings, these smaller
9 users. So is there a mechanism that we can use that
10 encourages that?

11 CHAIRWOMAN MORENO: That encourages the City
12 to build more parking garages.

13 MR. WILLIAM CARLSON: Well, the City is
14 going to meet the need based upon, if you have an
15 insufficient amount of on-street parking
16 availability, the only remedy is to develop more
17 parking garages.

18 The idea behind the impact fee is, if in
19 fact the Code can't be reached, if in fact they can't
20 provide sufficiency of parking to meet the Code, then

21 in fact they are forced or required to pay so much
22 per stall, that goes into a holding fund for future
23 parking garage construction, so that the City is not
24 placed in the position of having to shoulder the full
25 responsibility of the cost of developing these

1 parking garage facilities.

2 MR. PARDO: Bill, isn't there -- Is there a
3 percentage, based on your years of experience here,
4 as far as the CBD area, where a parking garage -- you
5 could only lease X percentage to, you know, that
6 constant customer, that private sector who's leasing
7 a monthly lease from you for parking? You know, is
8 it 50 percent? Is it 60 percent? Does it vary on
9 what location of which garage?

10 MR. WILLIAM CARLSON: You mean, if I have a
11 particular company that wants to lease a large number
12 of spaces?

13 MR. PARDO: Let's say this is Parking
14 Garage A. You know, we have several of them
15 downtown.

16 MR. WILLIAM CARLSON: Uh-huh.

17 MR. PARDO: That's where they're all
18 located right now. And this parking garage, say, has
19 a capacity -- just for a round number, has 500.

20 MR. WILLIAM CARLSON: Uh-huh.

21 MR. PARDO: Do you know how many, what
22 percentage, you would be able to feel comfortable
23 leasing out to different companies, where you would
24 say, but we still have to preserve, let's say, 200
25 spaces for the general public, non-leased,

1 non-pre-leased to the City. Is there a percentage or
2 formula, or just based on your experience, that you
3 feel comfortable?

4 MR. WILLIAM CARLSON: You mean, like a
5 comparison of, say, transient parking to permit
6 parking?

7 MR. PARDO: Exactly.

8 CHAIRWOMAN MORENO: Right.

9 MR. PARDO: Exactly.

10 MR. WILLIAM CARLSON: Yes.

11 MR. PARDO: Okay. What percentage is that?

12 MR. WILLIAM CARLSON: We've got a -- we've
13 got a -- I've got a very -- a pretty good feel for
14 what percentage of transient parking is going to be
15 utilized over the course of a day, and it depends
16 upon the location.

17 MR. PARDO: The location?

18 MR. WILLIAM CARLSON: Right, exactly, and --

19 CHAIRWOMAN MORENO: For example, the
20 Andalusia Garage.

21 MR. WILLIAM CARLSON: We run anywhere from
22 74 stalls up to 125, and for instance, in the new
23 parking garage that we're building right now, given
24 that location, I look for closer to 190 stalls that
25 would be transient, which is going to give you about

1 400 plus permit, as a beginning number.

2 MR. PARDO: So it's about 25 percent?

3 MR. WILLIAM CARLSON: 25 -- either 25 --

4 MR. PARDO: The transient versus --

5 MR. WILLIAM CARLSON: Right, in the 25

6 percentile --

7 MR. PARDO: The reason I ask this is

8 because when --

9 MR. WILLIAM CARLSON: But that's flexible.

10 MR. PARDO: Right.

11 MR. WILLIAM CARLSON: You know, we can --

12 MR. PARDO: One of the things, and we've
13 discussed this -- you know, we've discussed this over
14 the years, many, many, times, and one of the things,
15 Bill, that I've noticed is that the trolley system
16 has provided a feeder to all sorts of locations for
17 people to park. The one thing that hasn't been done
18 yet is utilizing, as a destination point, the trolley
19 as reaching certain parking garages that are super
20 underutilized, such as the parking garage on
21 Andalusia and Douglas.

22 MR. WILLIAM CARLSON: You mean, have the
23 trolley make that --

24 MR. PARDO: Exactly.

25 MR. WILLIAM CARLSON: Go to those locations.

1 MR. PARDO: And it's used successfully in
2 Europe, it's used successfully -- and it's used
3 successfully right now in Coral Gables. We've got
4 the trolley, it doesn't cost us any more money, and
5 the point is that -- and the one thing I'm concerned
6 with, as far as the -- as far as the fee, is the lack
7 of success that the City of South Miami has had with
8 that fee, because what happens is that the cost of
9 land -- the cost of construction goes up, but the
10 cost of land skyrockets. So you fix a fee that is --
11 then becomes the burden on the developer, but that
12 ring becomes just a lot more unachievable, because of
13 the spiraling cost of land, not even the
14 construction.

15 So, by the time -- The only reason that the
16 City has been able to build, is in the process of
17 building one and recently built a second parking
18 garage, which was very expensive, because it was a
19 triangular parcel, is because they owned the land.
20 Trying to find land in other locations becomes almost
21 impossible.

22 If the parking garages that you had now were
23 developed in such a way, utilizing a couple of more
24 innovative plates, such as tandem parking within
25 that, you would be able, for example, to lease to

1 more people and be able to get more cars within the
2 same size of volume of box for the garage, utilizing
3 the locations that you already have, because the land
4 already is the land; there's not an additional cost.

5 The only two that have been developed are
6 the Merrick -- the triangular parcel, the Merrick
7 Plaza one, and then, of course, the one behind John
8 Martin's. So it becomes more unachievable.

9 Now, many years ago, we went through a
10 process of getting private developers involved to
11 develop those garages, to try to offset -- to add
12 more revenue-producing -- revenue-producing sources
13 for the City, and at the same time, what was not
14 added in that proposal was to add more parking, so it
15 wouldn't have a negative impact on those existing
16 parking garages that were obviously underutilized as
17 far as building more on that particular site.

18 My question to you, Bill, is, if it was done
19 in a much more efficient manner, if it was done -- if
20 it was redone in a more efficient manner and we would
21 be able to bring more of those garages online today,
22 and also utilize the trolley, which already exists
23 and at a certain cost, wouldn't that be a good way to
24 start alleviating a lot of the parking issues?

25 MR. WILLIAM CARLSON: First of all, your

1 first question is, yes, I think -- I have recommended
2 in the past that the trolley, you know, take
3 advantage of stops at the garages, that would
4 certainly work in a marriage; the marriage would be
5 good.

6 MR. PARDO: And what was the response?

7 MR. WILLIAM CARLSON: They, in fact, intend
8 to study -- the program is going to grow, the trolley
9 is going to grow. It's just a matter of funding, you
10 know, and making it available, but that's definitely
11 something they're looking at.

12 MR. PARDO: The only comment I have beyond
13 that now is that on the 1.25, anyone that owns a
14 small building in the CBD area, that's part of what
15 still keeps the scale to a tolerable scale, and when
16 you take that shoe store that was there since after
17 the War, and all of a sudden they're gone and you can
18 only have so many corset stores, which, you know,
19 they're going to get changed into restaurants or the
20 highest yield, and once you take that 1.25 incentive,
21 and that's what it was created for, to keep the use
22 and not have people turn around and sell them and
23 have other people then amass, you know, the future
24 urban Starwood projects, I think what you're
25 literally doing is, you may be alleviating a little

1 bit of the parking problem, but then you would be
2 creating, you know, a bigger massing problem, because
3 then the only incentive for someone would be able --
4 you know, is to get together with everybody else on
5 the block --

6 MR. DONSKY: Exactly.

7 MR. PARDO: -- and do another mega-building,
8 and also, the concept of the CBD, the Central
9 Business District, is that mixed use and walking
10 become a foundation of CBD. The difference between
11 the CBD and any other business or commercial area in
12 the City is that you want people to get to that
13 point, whether they're parking in one of the garages
14 somewhere else, and then be able to walk everywhere
15 and do all the things, whether it's work or live or
16 shop or play.

17 So, if you take away that 1.25, to save
18 those two parking spaces, let's say, you've opened
19 yourself up to possibly a problem that is
20 substantially worse than those one or two parking
21 spaces.

22 MR. KORGE: Madam Chairman, may I ask a
23 question?

24 CHAIRWOMAN MORENO: Yes, please.

25 MR. KORGE: Does the Parking Advisory Board

1 have a specific recommendation for us to consider on
2 impact fees, or is it just something that you think
3 should be studied further?

4 MR. DONSKY: Well, you know, the impact fee
5 is not a be-all and end-all. It's a solution that is
6 a compromise. You can have an impact fee, but as Mr.
7 Pardo pointed out, the cost of land, for the City of
8 Coral Gables to get that nowadays is not going to be
9 commensurate with the impact fee.

10 MR. KORGE: I don't mean to cut you off, and
11 I really don't mean to be rude, but we need -- if
12 there's a specific proposal that we could look at and
13 think about and discuss, that would be good, but I
14 cannot imagine how this Board could, ad hoc, come up
15 with an impact fee system in the middle of a major
16 Code rewrite.

17 I mean, if you have something specific to
18 recommend on that point, I'd love to see it.

19 MR. DONSKY: Well, the issue was raised to
20 us and we tried to answer it, and we felt that we
21 didn't have an answer for it. We felt that we didn't
22 like the situation of the Houstons or any of the
23 other big restaurants that come in and create parking
24 problems, not only parking, but problems in the
25 streets and the traffic, et cetera. We didn't know

1 the answer. But one of the things that somebody

2 brought up was, maybe an impact fee --

3 MR. KORGE: Right.

4 MR. DONSKY: -- would help it. We didn't go

5 into it in any depth, because that was not our

6 purpose. Our purpose was to look at the issue. We

7 didn't study it in depth, as you people are doing.

8 All we did was, we were given certain --

9 CHAIRWOMAN MORENO: Okay.

10 MR. DONSKY: -- issues to look at, and we

11 gave our recommendation, so --

12 CHAIRWOMAN MORENO: Okay.

13 MR. DONSKY: Have we considered what the

14 impact -- no, we haven't, to be very honest with you.

15 We thought that was a partial solution to a problem

16 that we get all the time. You get five Houstons on

17 the block, how are we going to handle that situation?

18 It's going to come back to us, sooner or later.

19 CHAIRWOMAN MORENO: Yeah. Okay. Thank you

20 very much.

21 MR. STEFFENS: I have two questions.

22 MR. PARDO: Yeah, and I have another

23 question.

24 MR. STEFFENS: Going back to the 1.25 FAR

25 with no parking required, 1.45 with Mediterranean

1 bonuses, one of the things I've been trying to
2 champion is to expand that a little bit, to try to
3 encourage more of that, and possibly allow them to go
4 over the 1.45 to some other number, to two or two and
5 a half, and maybe only provide the parking gap, let's
6 say. Right now, once you go over 1.25 or 1.45, you
7 have to provide all the parking. If you go to 1.5,
8 you have to provide all the parking, not just that
9 piece.

10 And my idea would be to allow them to go
11 over that, but only up to some point, which after
12 that point, again you would have to provide all the
13 parking, but in that gap in there, they would only
14 need to provide the parking for that gap. So they'd
15 get the 1.25 or 1.45, be able to build a little bit
16 more, provide that gap of parking, and be able to
17 build a useful small building.

18 The building that I use as a model is the
19 Colson, Hicks and Eidson office building, which
20 couldn't have been built under the existing Code,
21 because that's an FAR of a little bit over two, but
22 that's a scale of a building that seems like
23 something that we would want to encourage in the
24 City. You know, it's not too big. They provide part
25 of their parking, not all of it, and it works well

1 with the scale of the street and the City. So I'd
2 like to know what your feelings on that are.

3 The other item that I noticed in here was
4 shared parking, and I noticed that you had rejected
5 shared parking unanimously, and that is, I think, one
6 of the foundations of mixed-use projects, is that a
7 mixed-use project can reduce the scale and the bulk
8 because they have the shared parking, and there's a
9 formula for shared parking that's been worked out
10 among mixed-use projects for the past 20 or 25 years,
11 that is a formula that seems to work with mixed-use
12 projects in urban areas.

13 MR. PARDO: It's a national standard.

14 MR. STEFFENS: Yeah. Well, it's a ULI --

15 MR. PARDO: Yeah, ULI national standard.

16 MR. STEFFENS: So I was wondering why that
17 was rejected out of hand, where there is hundreds of
18 concrete examples of a formula for shared parking
19 working.

20 MR. DONSKY: I don't think, at the time,
21 that particular aspect was discussed with us, okay,
22 what the formula was -- I think for us to get into
23 that, I think would take a whole presentation of a
24 whole meeting, because I think it's a -- I don't
25 disagree with it, but the concept of shared parking

1 can mean different things to different people. But
2 if you're telling me there's a formula, and if the
3 formula works -- just like right now, if you ask me
4 about the current provision of the Code that says in
5 a commercial building in the CBD, you need one
6 parking space for every 350, I don't think that's
7 realistic, okay? That's -- not only do I think it's
8 unrealistic, but in one of our sessions with the
9 Commission, Commissioner Kerdyk thought it was
10 unrealistic, also, and he brought it up from the
11 dais.

12 So, you know, there are different
13 interpretations you can look at, and what was in the
14 Code for 30 years may not be applicable today.

15 If we were given more background as to the
16 policies, et cetera, we could have looked at it a
17 little differently. We were handed four or five
18 issues and we talked about them very generally, and
19 we were not really -- We didn't want to see a
20 situation where there's an argument, "Well, we have a
21 mixed-use building, and yeah, 70 percent of the
22 apartment dwellers are going to leave during the
23 day."

24 I don't know whether 70 percent is
25 realistic, unrealistic, what have you. We were given

1 no facts or figures to that effect. It was general,
2 "What do you think about shared parking?" We had
3 some reservations about it. And that's how we
4 discussed it, and maybe the discussion was for 15
5 minutes, and that was the end of it.

6 If you would like us to look at it more in
7 depth, we'd be happy to. Give us the proper
8 information that we need. And, you know, we're not
9 experts, as some of you may be, but we'd be happy to
10 look at it in that regard.

11 MR. STEFFENS: Okay.

12 CHAIRWOMAN MORENO: That would be good.

13 MR. STEFFENS: Bill --

14 CHAIRWOMAN MORENO: Do you have any
15 experience, and I don't know if this is a shared
16 parking building, but the Publix building on 37th, is
17 that a shared --

18 MR. WILLIAM CARLSON: Where?

19 CHAIRWOMAN MORENO: The Publix on 37th
20 Avenue.

21 MR. STEFFENS: The new Publix.

22 CHAIRWOMAN MORENO: I think -- It's called
23 the Grand, I think, or -- the Douglas Grand, is
24 that --

25 MR. STEFFENS: The new Publix mixed-use,

1 where the Coliseum was.

2 CHAIRWOMAN MORENO: Where the Coliseum was.
3 How has that worked out?

4 MR. WILLIAM CARLSON: I haven't had any
5 information, either positive or negative, from that
6 location. I can tell you that the parking industry,
7 as a whole, looks upon shared parking with great
8 negativity.

9 CHAIRWOMAN MORENO: With great negativity?

10 MR. WILLIAM CARLSON: We don't see an up
11 side to it. It's a formula that if it works, that's
12 wonderful. If it doesn't work, who gets stuck? The
13 city, the municipal government, or the people who are
14 trying to park there. It's nice to have a formula
15 when it works, but it doesn't always work, so -- and
16 when it fails, there's a shortfall of parking that
17 can't be corrected.

18 MR. STEFFENS: But that's true of any
19 formula. That's true of our one per 300 or one per
20 350. I mean, if it doesn't work, it's a problem.

21 MR. WILLIAM CARLSON: Well --

22 MR. STEFFENS: But we have to pick some
23 formula to base what we move forward on.

24 MR. KORGE: Speaking of the one per 350 --

25 MR. WILLIAM CARLSON: Nationally, in terms

1 of shared parking, it isn't a concept that is
2 favorably disposed. It is not favorably disposed.

3 MR. KORGE: You'd indicated that the one per
4 350, you thought, was inadequate. What would be
5 adequate? And how do you arrive at the conclusion of
6 what would be adequate?

7 MR. DONSKY: Well, I guess it was -- How did
8 we arrive at that conclusion? I guess it was a
9 negative. We said we thought that one per 350, from
10 the feedback we've gotten, was not adequate at the
11 present time, and we thought it was unrealistic,
12 because it's been on the books for I don't know how
13 many years, and parking has evolved in a strange way,
14 that you have a lot of -- a lot more guests coming
15 in. It's maybe not adequate even under today's
16 standards, because there are a lot more factors to be
17 taken into account.

18 We thought -- We didn't know a number. It
19 could be 325, it could be 300, it could be somewhere
20 in between, and we didn't come up with a number. But
21 we thought one for 350, which has been on the books
22 for a long time, was not realistic.

23 CHAIRWOMAN MORENO: Is there a
24 recommendation nationally, Mr. Carlson?

25 MR. WILLIAM CARLSON: My counterparts that I

1 speak with, you know, around the country, have --
2 when in fact the concept of shared parking has been
3 introduced, have pointed to locations where it has
4 proved to be a problem, and for the most part, they
5 make every effort to not include it in their
6 thinking.

7 CHAIRWOMAN MORENO: Okay, but let's forget
8 about shared parking. The one per 350 commercial,
9 have your contacts given you another number, one per
10 300, one per 250?

11 MR. WILLIAM CARLSON: I haven't -- I haven't
12 had any information --

13 CHAIRWOMAN MORENO: Discussion on that?

14 MR. WILLIAM CARLSON: No.

15 CHAIRWOMAN MORENO: How can we find out
16 what's the current standard? Maybe --

17 MR. WILLIAM CARLSON: Well, the current
18 standards would probably come -- Planning and
19 building and zoning departments would be coming up
20 with those, as opposed to parking systems.

21 CHAIRWOMAN MORENO: Okay, then, I'm going to
22 thank both of you, and let Mr. Siemon come back up
23 and explain to me what he's recommending. Thank you
24 very much.

25 MR. PARDO: I've got a question for Mr.

1 Donsky.

2 Mr. Donsky, has your committee gone back to
3 the original private -- City-owned parking garages
4 being developed by private developers? Have you gone
5 back to the RFPs? Have you gone back to those and
6 revisited those, to try to get more parking?

7 MR. DONSKY: Well, I'll tell you -- I'll
8 tell you the feelings that we had. The feeling was,
9 as you pointed out, real estate is at a premium, and
10 the concept was that the private development, the
11 mixed use, would retain the present parking, number
12 of parking spaces, okay? They would manage, which we
13 felt was a problem, and that it didn't take into
14 account future use of needed parking facilities later
15 on. You cannot -- once they have a mixed-use
16 building there, how do you accommodate future parking
17 needs? It was our feeling that we should keep
18 control of all of the parking garages, because the
19 future is here.

20 For example, I think there was a study done
21 five years ago that studied the parking, and at that
22 time they said we needed 1,500 more parking spaces in
23 the Gables. Of course, nothing was done about it,
24 and that's five years. So I assume the 1,500, and
25 today maybe there's another 1,500. Where are these

1 people going to park?

2 If you give away -- that's how I look at it,
3 it's not giving away, but you're limiting the future
4 expansion of these parking garages. Some of them
5 could double in space.

6 CHAIRWOMAN MORENO: Uh-huh.

7 MR. DONSKY: And as you point out, what are
8 we going to do? Are we going to condemn an office
9 building and pay a hundred million dollars to try and
10 put a parking garage, or we're going to have to put
11 the parking garages far away from where they're
12 needed.

13 MR. PARDO: Did you look into tandem parking
14 in parking garages?

15 MR. DONSKY: Explain that further.

16 MR. PARDO: Tandem parking is when you
17 park --

18 MR. DONSKY: One on --

19 MR. PARDO: No, front to back, let's say, so
20 you still have just one aisle, but you get to get two
21 cars in, two cars -- you're picking up a footprint of
22 about 20 some odd feet. So, in other words, you get
23 to possibly double the amount of parking within the
24 same volume of parking garage. Have you looked into
25 that?

1 MR. DONSKY: Okay, let's take -- I don't
2 believe we went into that specifically, but let's
3 take that a step further. Assuming it would allow us
4 more parking --

5 MR. PARDO: Right.

6 MR. DONSKY: Okay, 10, 15, 20 years from
7 now, we're still going to need more parking in the
8 Gables, and where is that going to come from?

9 MR. PARDO: I understand, but what I am
10 asking is, for example, a developer comes in today
11 and he is not allowed to count tandem parking toward
12 his required parking. You're saying, for example, in
13 the CBD, it's one space for every 350 square feet.
14 Outside of the CBD, for commercial, it's one for
15 every 300, excluding restaurants and medical.

16 Then that particular amount of parking,
17 where it exists there today for a developer that's
18 developing a larger building with a parking garage,
19 if he's able to be allowed to count it, you would be
20 able to require more parking and you could
21 conceivably get a smaller building and still
22 comply and/or exceed the requirement of today's Code,
23 which is deficient.

24 MR. DONSKY: Okay, well, until we can study
25 that and take a look at it, you know, we would be all

1 in favor if it, in fact, works out, okay, the tandem
2 parking.

3 MR. PARDO: Right. I'm also curious --
4 That's just a concept that could conceivably be
5 looked at. There is another issue which Mr. Riel
6 explained, that we haven't touched on.

7 Has your committee, by any chance, ever been
8 approached about the issue of parking problems
9 between commercial abutting single-family
10 residential, where there's a bleeding -- where
11 there's a bleeding of that commercial parking
12 requirement use into the single-family residential
13 use? Has that ever come to your committee as a -- I
14 know Bill gets phone calls all the time, and it's a
15 real problem, but has your committee ever addressed
16 that, possibly looking into requiring more parking
17 per square foot for the ones that are within a
18 certain distance?

19 MR. DONSKY: It did come before us at the
20 last meeting, and we did discuss it, again, very
21 quickly, and the concept was that to do any -- you
22 know, we felt that the effectiveness of -- we
23 understood the problem, okay, that there is a
24 bleeding into the residential and that, you know, it
25 creates other problems for the residents and how they

1 handle it. We've looked into that, as well.

2 But I think our recommendation was -- and
3 maybe it was skirting the issue, was that when you
4 have a certain rule or regulation for everybody in
5 the Gables, that whether you're in the CBD or not in
6 the CBD, outside the CBD, if it's -- so what you're
7 saying, and I guess how we understood it, if there
8 was going to be a developer who comes in and meets
9 all the needs of the present Code, we didn't feel
10 that we would penalize that developer to require
11 additional parking.

12 However, if he came in and requested a
13 variance, which then opens him up to you people and
14 the Commission looking at what he's looking after,
15 that may be a way of trying to solve the problem.

16 MR. PARDO: But you do recognize that it is
17 an existing problem?

18 MR. DONSKY: Absolutely.

19 MR. PARDO: And what I'm saying is that,
20 for example, right now --

21 CHAIRWOMAN MORENO: How much of it, though,
22 Felix, is scarcity of parking and how much of it is
23 people, employees, who don't want to pay --

24 MR. PARDO: The money.

25 CHAIRWOMAN MORENO: -- the parking in the

1 parking garages?

2 MR. PARDO: Right. That's a good point, and
3 I brought that up before, but the severity is, there
4 is right now -- the present Code has recognized
5 conceptually that there's a difference if you're in
6 the CBD, because there's more availability of
7 on-street parking, which includes public garages,
8 which used to be basically surface lots, most of the
9 time, and there's already a difference in number of
10 the 350 versus 300.

11 But the problem is that the more the City
12 gets developed, for whatever reason, and most times
13 it's the physical reason, but the monetary reason is
14 realistic, and I don't know if anyone can break that
15 down, that there's no reason why we couldn't -- There
16 was a lawyer here last time, talking about TDRs and
17 creating a buffer, but there's no buffer for parking.

18 So what happens is, when you're close to
19 those residential areas, as Cristina said, if you are
20 going to park in one of Bill's garages and pay for
21 that monthly permit, and it's going to be free in
22 front of somebody else's house, it's a no-brainer.
23 They're going to park in front of somebody else's
24 house.

25 But what I'm saying is that if you take that

1 perimeter and, say, you say a normal walking
2 distance, most likely those people aren't going to
3 walk four or five or six blocks to their business.
4 So, if the developer is required to provide more
5 parking for those uses that are within a certain
6 distance of the single-family residential, you know,
7 you could -- you're not penalizing, you're
8 recognizing and you're actually providing relief to
9 the single-family residential that's getting
10 besieged.

11 MR. STEFFENS: But, Felix, I think that the
12 City has exacerbated that problem by something that
13 you talk about as a solution to part of the problem,
14 which is the trolley. I think the trolley has
15 allowed people to park on South Ponce, north of
16 Bird --

17 CHAIRWOMAN MORENO: Yes.

18 MR. STEFFENS: -- that would never park
19 there before, and go into the CBD very easily.

20 MR. PARDO: Without a doubt.

21 MR. STEFFENS: And now those people that are
22 parking there are displacing the people that were in
23 all the little buildings along South Ponce, that
24 would have to -- that maybe they didn't have quite
25 enough parking and they'd park down Ponce. They

1 can't park anywhere else. It's pushing it all into
2 the neighborhoods, and I think --

3 CHAIRWOMAN MORENO: You see, now, parking on
4 Segovia during the day that wasn't there before --

5 MR. STEFFENS: Sure.

6 CHAIRWOMAN MORENO: -- that I think is
7 people that are trying to save the monthly parking.

8 MR. PARDO: Without a doubt. I mean, if
9 you're --

10 CHAIRWOMAN MORENO: That's not scarcity of
11 parking. That's savings.

12 MR. STEFFENS: A solution for those kind of
13 things is not necessarily forcing those people in
14 those little buildings to provide more parking,
15 because you're still going to have the trolley access
16 to that, and, you know, the solution might be
17 something that the City hasn't wanted to implement,
18 which is residential parking permits.

19 MR. PARDO: Well, I think Mr. Donsky was
20 right --

21 MR. WILLIAM CARLSON: We have an
22 ordinance --

23 MR. PARDO: -- in saying that our Code
24 was --

25 CHAIRWOMAN MORENO: You don't have a problem

1 with that?

2 MR. WILLIAM CARLSON: We have an ordinance
3 in place.

4 MR. STEFFENS: Yeah?

5 MR. WILLIAM CARLSON: That program is
6 available.

7 MR. KORGE: But they aren't implementing
8 that.

9 MR. WILLIAM CARLSON: In addition to that,
10 frankly, those persons that I have had calls from,
11 that have had problems with commercial encroaching
12 into the residential neighborhoods, with rare
13 exception, we've dealt with the problem, and for the
14 most part, that's through simply the implementation
15 of parking signage, "No parking 9:00 to 3:00," which
16 effectively has eliminated most of the problem, and
17 in those areas that it does not, the residential
18 permit parking program is in place, and anyone that
19 wants to take advantage of that program can do so.

20 MR. KORGE: So it's really not a problem?

21 MR. PARDO: It is a problem.

22 MR. WILLIAM CARLSON: It is a problem. We
23 get calls. We get calls all of the time, but we
24 relate to the problem and we've been able to deal
25 with it. There always will be a problem with

1 commercial encroaching into the residential zones,
2 because of the free parking. Free parking is always
3 going to win out over paid parking. But between the
4 signage and the availability of the residential
5 permit parking program, we have been able to resolve,
6 I would say, 95 percent of the issues that come to
7 us.

8 MR. KORGE: Is there anything we need to do
9 to resolve the remaining five percent, or is it --
10 it's just always going to be there?

11 MR. STEFFENS: Is it an enforcement issue or
12 a Code issue?

13 MR. WILLIAM CARLSON: No, we have -- we have
14 enforcement availability. I mean, if in fact the
15 signage is in place, we enforce it.

16 MR. PARDO: And they're very efficient,
17 Bill --

18 MR. WILLIAM CARLSON: Thank you. Thank you.

19 MR. PARDO: -- based on all the tickets I've
20 gotten.

21 MR. WILLIAM CARLSON: I'll look at it --
22 I'll take that as a compliment.

23 MR. PARDO: That is a compliment.

24 CHAIRWOMAN MORENO: But perhaps the answer
25 for us is, when members of the public come before us

1 and complain about that, to make them aware that
2 there is a residential parking permit availability --

3 MR. WILLIAM CARLSON: There is a remedy.

4 CHAIRWOMAN MORENO: -- and that they need to
5 speak with --

6 MR. WILLIAM CARLSON: There are remedies in
7 place. By all means, have them call the Department
8 and speak with me.

9 CHAIRWOMAN MORENO: Okay.

10 MR. PARDO: But right now, I remember
11 residents coming before us and saying that one of the
12 things that was unfair is that they bought a
13 single-family home and now they have to pay for the
14 permit.

15 MR. WILLIAM CARLSON: You mean, the
16 residential --

17 MR. PARDO: The resident has to now pay for
18 the permit, to put the sticker on their car, and when
19 they have people visiting their home, usually, you
20 know, they'll get ticketed, and sometimes they even
21 get towed.

22 MR. WILLIAM CARLSON: They have to -- No,
23 what happens with visitors is, the program nationally
24 is, you have a visitor's hanglet, that you come in
25 and you get as many as you need, depending upon the

1 number of people that are going to be visiting.

2 There is a deposit. The cost -- the deposit is
3 returned. The cost is really five dollars, you know,
4 for each one of those that's handed out.

5 Residential permit parking is not looked
6 upon, in a general context, as a popular program.
7 You put it in place when it becomes an absolute
8 necessity to relieve that commercial incursion.
9 We've really had a lot of success with the posting of
10 the "No parking 9:00 to 3:00."

11 CHAIRWOMAN MORENO: But what happens if --
12 for example, at my house, if we could not park on the
13 swale, we would have a problem.

14 MR. PARDO: Sure.

15 MR. WILLIAM CARLSON: Uh-huh.

16 CHAIRWOMAN MORENO: You know, what happens
17 to that resident when his own car is parked in that
18 "No parking 9:00 to 3:00"?

19 MR. WILLIAM CARLSON: When, in fact, you
20 post that signage, it does apply to everyone.

21 CHAIRWOMAN MORENO: Yeah.

22 MR. WILLIAM CARLSON: It does.

23 MR. PARDO: And that's a problem.

24 CHAIRWOMAN MORENO: That's why, for those
25 people, the residential parking permit might work

1 better.

2 MR. WILLIAM CARLSON: Exactly. That's the
3 reason it's there.

4 CHAIRWOMAN MORENO: In fact, Segovia, I'm
5 sure --

6 MR. WILLIAM CARLSON: It's an alternative.

7 CHAIRWOMAN MORENO: I'm sure on Segovia,
8 they don't have enough parking without parking on
9 that swale.

10 MR. PARDO: You know, there's another
11 issue --

12 CHAIRWOMAN MORENO: Felix, why don't we let
13 Mr. Siemon come up and explain to us how he's
14 addressing these issues in the Code revision before
15 we continue.

16 MR. PARDO: Were you leaving or -- Because
17 I wanted to ask him another question.

18 You're leaving?

19 MR. WILLIAM CARLSON: Well, would you --

20 MR. PARDO: Okay. May I ask him another
21 question?

22 CHAIRWOMAN MORENO: One more.

23 MR. PARDO: Okay.

24 When you look at preserving, you know, this
25 quality of life of, you know, the single-family

1 residential area, and you're looking at the parking
2 requirements, every airport that I've ever parked a
3 car has short-term rates and location, long-term
4 rates and location, and remote rates and location.

5 We have a vehicle, which is the trolley,
6 where we could be parking cars very far away and
7 bringing workers to those areas where those offices
8 are. If you would look at that in multiple rates,
9 there's absolutely nothing wrong with creating a
10 buffer, you know, to help out by providing those
11 people that are intrinsically inside of those
12 residential areas with more parking.

13 The one to 300 is deficient. Simply based
14 on computers and physical space, it is absolutely
15 deficient. But to offset that, if you allow people
16 to count tandem parking as part of the required, as
17 was done in this City many years ago, when people
18 would be able to go into their offices through an
19 alley and park two cars, you know, back to back, and
20 that was tandem, that tandem parking issue can save a
21 lot of space.

22 MR. WILLIAM CARLSON: Tandem parking works
23 if you have a controlled area.

24 CHAIRWOMAN MORENO: Uh-huh.

25 MR. WILLIAM CARLSON: If you talk public

1 parking garages --

2 MR. PARDO: No, no, no. I'm talking about
3 the office. In other words --

4 MR. WILLIAM CARLSON: Absolutely. In a
5 controlled area.

6 MR. PARDO: -- I've got ten employees.
7 They've got ten cars.

8 MR. WILLIAM CARLSON: Sure, that will work.

9 MR. PARDO: And with five tandem parking
10 spaces --

11 MR. WILLIAM CARLSON: Tandem also --

12 MR. DONSKY: It works. I have an office
13 building in the Gables, and I have five legitimate
14 parking spaces, but ten cars park there. Why?
15 Because all the employees are within the building,
16 and if someone has to get out, "Can you move your
17 car? Here's my key."

18 MR. PARDO: Mr. Donsky, that's tandem
19 parking.

20 MR. DONSKY: Okay. That works.

21 MR. PARDO: But when the Code -- but when
22 the Code recognizes it, then all of a sudden, then
23 just imagine doing that on a parking garage, where
24 you have -- just envision when you go to Publix and
25 you have one space, one space, and one drive aisle.

1 It's one drive aisle, and now it's two cars and two
2 cars. So you were able to get four instead of two
3 cars, basically with just a little more footprint.

4 Just keep in mind one of Bill's parking
5 garages that's going up. All of a sudden, on that
6 plate, he's able to get double the amount of cars
7 within the same height, at the same cost of land.
8 You've got nothing but a win-win situation.

9 MR. STEFFENS: If that was a City parking
10 garage, then it would have to be an attended City
11 parking garage, with valets or something.

12 MR. PARDO: No, but what I'm saying is that,
13 you know, going back to a percentage of leasing --

14 MR. WILLIAM CARLSON: Right. You have to
15 retain a controlled environment or you're going to
16 have chaos.

17 MR. PARDO: Right, but -- no, but --

18 CHAIRWOMAN MORENO: You know, my parking
19 garage did that, and they had to give it up.

20 MR. WILLIAM CARLSON: That's --

21 MR. PARDO: Well, you know, the funny thing
22 is that the more I travel, the more I see them, and
23 the reason is because land gets more expensive
24 everywhere, and the first question I asked Bill was,
25 "What percentage?" He said for the transient

1 parking --

2 MR. WILLIAM CARLSON: Generally, 25 percent.

3 MR. PARDO: -- 25 percent. Let's say it's
4 50 percent. Take half of one of the garages and put
5 in twice the amount of cars, and you just don't have
6 to look for more land to build more parking garages.

7 MR. STEFFENS: For a while --

8 CHAIRWOMAN MORENO: I think that in theory,
9 it sounds great. I can tell you, my building,
10 Downtown Miami, they tried it. It was chaos. It
11 didn't work.

12 MR. WILLIAM CARLSON: Right.

13 CHAIRWOMAN MORENO: They gave it up.

14 MR. WILLIAM CARLSON: It is -- You have to
15 have --

16 CHAIRWOMAN MORENO: And they tried it for
17 like three years.

18 MR. WILLIAM CARLSON: -- a controlled,
19 smaller environment, where somebody can deal with the
20 problems.

21 CHAIRWOMAN MORENO: Is there for the long
22 term.

23 MR. WILLIAM CARLSON: For instance, tandem
24 also is upper and lower.

25 MR. STEFFENS: No, tandem --

1 MR. WILLIAM CARLSON: There's two ways to do
2 it.

3 MR. PARDO: Right, we discussed that.

4 MR. STEFFENS: Yeah.

5 MR. WILLIAM CARLSON: But you're going to
6 find, historically, that it's utilized in a
7 controlled environment, where everyone knows everyone
8 else and they're able to work together, and even
9 then --

10 CHAIRWOMAN MORENO: Like his office.

11 MR. WILLIAM CARLSON: -- it can create some
12 wars. It create some --

13 MR. STEFFENS: Or, if there's a valet that's
14 taking care of it.

15 MR. WILLIAM CARLSON: Well, if you --

16 CHAIRWOMAN MORENO: People would forget to
17 leave their keys --

18 MR. WILLIAM CARLSON: And then you have the
19 expense, of course, of the additional personnel, and
20 again, people can be kept waiting. If you've got one
21 valet, and he's running around, you know, releasing
22 these cars, it can be difficult.

23 MR. STEFFENS: I know Miami Beach allowed
24 it for a period of time, on a percentage of the
25 parking that would be provided for a condominium or

1 something, and --

2 I don't know, Lucia, do they still allow it
3 on Miami Beach, tandem parking?

4 MS. DOUGHERTY: Yes.

5 MR. WILLIAM CARLSON: Well, you know, for
6 an apartment --

7 MR. STEFFENS: At a certain percentage.

8 MR. WILLIAM CARLSON: -- I can understand
9 that.

10 MR. STEFFENS: In a condominium that would
11 have an attendant, a doorman.

12 MR. WILLIAM CARLSON: Exactly. But in a
13 public facility, I think it would create issues.

14 MR. STEFFENS: But your --

15 CHAIRWOMAN MORENO: Wait. Let's get Mr.
16 Siemon up and move on.

17 MR. STEFFENS: Can I just ask Bill one
18 question?

19 Can I get your feedback on that question
20 that I -- or that comment that I made about the 1.45,
21 going over the 1.45 and providing that gap in the
22 parking?

23 MR. WILLIAM CARLSON: The sliding scale?

24 CHAIRWOMAN MORENO: Yeah.

25 MR. STEFFENS: What is your feeling on that?

1 MR. WILLIAM CARLSON: I think it's something
2 that deserves our -- that we can look at. I think
3 it's something that could work, and I think we have
4 to give it -- we'd have to give it more study and
5 more consideration, but certainly it's worthy of our
6 looking at it.

7 MR. PARDO: Where would you put that space,
8 let's say those two --

9 CHAIRWOMAN MORENO: Would you look at it?

10 MR. DONSKY: I'll tell you, if you'd be good
11 enough to give us those issues which you'd like us
12 specifically to look at, at one of our meetings, we'd
13 be happy to do it, as long as we have some of the
14 details behind it and not give it a cursory look,
15 which is what we've had to do so far.

16 CHAIRWOMAN MORENO: Okay.

17 MR. DONSKY: But if we could have that, we'd
18 be more than happy to go over it in depth, as long as
19 we're given the proper materials to come to -- to
20 evaluate it and come to a decision, so --

21 CHAIRWOMAN MORENO: Okay. Now, really, I
22 want Mr. Siemon to come up --

23 MR. DONSKY: Okay.

24 CHAIRWOMAN MORENO: -- and tell us what he's
25 recommending.

1 MR. PARDO: Are you leaving, Bill?

2 MR. WILLIAM CARLSON: Unless you want me to

3 stay longer.

4 MR. PARDO: I had one more question.

5 CHAIRWOMAN MORENO: No, let -- Wait, wait.

6 Let him sit down.

7 MR. PARDO: Could you stay?

8 CHAIRWOMAN MORENO: Could you stay for one

9 minute? Let Mr. Siemon make his presentation --

10 MR. WILLIAM CARLSON: Yeah, sure.

11 CHAIRWOMAN MORENO: -- and then when he's

12 finished with it, maybe we'll have one more question

13 for you.

14 MR. WILLIAM CARLSON: No, sure.

15 CHAIRWOMAN MORENO: Thank you.

16 MR. STEFFENS: Thank you.

17 CHAIRWOMAN MORENO: Thank you both.

18 MR. PARDO: That's pretty exciting. It's

19 the first time these guys (inaudible).

20 MR. SIEMON: Somebody picked up my -- There

21 you go.

22 (Inaudible comments between Board members)

23 MR. SIEMON: Let me try to summarize what

24 we've recommended. First, we've recommended deleting

25 the shared parking formula.

1 While public parking operators probably
2 don't have an appropriate opportunity to use
3 mixed-use shared parking, in true mixed-use projects,
4 shared parking formula, particularly the one that's
5 been prepared by the Urban Land Institute, that's
6 found in a book called Dimensions of Parking, has now
7 been in effect for about 25 years and has proved very
8 successful.

9 It's not what you've used before here, and
10 given the nature of your development, you'd really
11 have to have a strong office and residential mix, in
12 order to that really work, and so we think there's
13 probably not much of an opportunity here at this
14 point, and so we have recommended deleting that, but
15 I think it has to do with where it's located, where
16 you're doing it.

17 MR. STEFFENS: So, for that formula to work,
18 it needs office and residential together --

19 MR. SIEMON: That's really where the --

20 MR. STEFFENS: -- not office/retail or
21 residential/retail?

22 MR. SIEMON: Office is 90 percent occupied
23 during the day. Residential is 90 percent occupied
24 in the evening. That's what makes it.

25 Where it's office and restaurant or retail,

1 or retail and residential, it just really -- because
2 they have powerful overlaps. That's where --

3 CHAIRWOMAN MORENO: Yes.

4 MR. KORGE: You mean, in the same building,
5 office and --

6 CHAIRWOMAN MORENO: Right.

7 MR. STEFFENS: Mixed-use projects.

8 MR. SIEMON: Well, using the same
9 facilities. It can be two buildings with a common
10 parking facility. But the key is, it's really got to
11 have a large share of office and residential or
12 you're going to have conflicts.

13 MR. PARDO: It's not that you -- it's
14 actually the watch. In other words, if that use
15 happens during the day and the other one during the
16 night, that parking space is going to be empty.

17 Right now, in about one hour, you're going
18 to find most of the parking garages of the office
19 buildings in the CBD totally empty, and the reason is
20 because everybody is going home.

21 CHAIRWOMAN MORENO: So shared parking,
22 you're recommending we eliminate?

23 MR. SIEMON: We're recommending that that be
24 deleted.

25 CHAIRWOMAN MORENO: Okay.

1 MR. SIEMON: We're recommending that the
2 1.25 FAR be retained. Our hesitancy of increasing it
3 to 1.45 is that you have a problem, and solving that
4 problem -- You have an existing parking deficiency in
5 your CBD, and that parking problem is very difficult
6 to meet in the future. I mean, there's very little
7 land and it's very expensive to build facilities, and
8 so we chose not to recommend -- we actually
9 considered eliminating the 1.25, because of that
10 deficiency, but we --

11 CHAIRWOMAN MORENO: What about Michael's
12 idea of permitting, you know, to go up to 2, as long
13 as you provide the difference between 1.25 and 2?

14 MR. SIEMON: It's -- it's a balance. I
15 mean, it's a compromise, and obviously, it's one way
16 of doing it. I do think it's not -- not -- it's
17 unlikely to be effective, to allow small businesses,
18 like small restaurants that you want to have
19 downtown, to pay a realistic fee in lieu of providing
20 parking, because the cost of those spaces is
21 really -- they're going to really be a deterrent to
22 the formation of new restaurants and small
23 businesses, because the cost of actually providing a
24 parking space, I don't know, with land, what would
25 you say, eighteen five right now?

1 MR. WILLIAM CARLSON: Cost per stall now,
2 the low end would be in the 15,000s. High end would
3 be as high as 22.

4 MR. SIEMON: I said eighteen five, as an
5 average.

6 MR. PARDO: That's without the cost of
7 land.

8 MR. SIEMON: And you just can't put that on
9 top of a small retailer. So I think there's a
10 balance. I think that that might be a compromise. I
11 mean, I think that we would be neutral on that, that
12 notion.

13 MR. STEFFENS: Now, you're saying eliminate
14 the 1.45?

15 MR. SIEMON: No, no, no. I'm saying
16 go to -- if you wanted to go to 2, and have them,
17 between 1.25 and 2, pay only the increment, provide
18 only the increment of parking, I think that's a
19 reasonable compromise.

20 MR. PARDO: With a limit.

21 MR. STEFFENS: But now --

22 MR. PARDO: Michael said with a limit.

23 MR. STEFFENS: Yeah, with some --

24 MR. SIEMON: Yeah.

25 MR. STEFFENS: Once they go over 2, they've

1 got to provide it all.

2 MR. SIEMON: Once they go over 2, they have
3 to go the whole -- they have to provide it all.

4 MR. PARDO: And you have to provide the
5 parking on site --

6 MR. STEFFENS: Of course.

7 MR. PARDO: -- because if you give -- It's
8 not that you pay for a permit from Bill somewhere
9 else.

10 MR. SIEMON: Well, I will say that there is
11 a circumstance under which I think a parking fee in
12 lieu for that -- for example, between 1.25 and 2,
13 could be effective, and that is, if you had, as some
14 communities do have, a downtown-wide special
15 assessment which is used to fund parking garages, and
16 then those special assessments, which apply to
17 everybody on a pro rata basis, are then credited for
18 payments in lieu that are used to defray some of the
19 costs, those can be a successful program, but without
20 that additional commitment to provide the parking on
21 a scheduled provision, the payment in lieu is really
22 not going to help your problem. It's just going
23 to -- It's just not practical.

24 MR. PARDO: South Miami has been a disaster.

25 MR. STEFFENS: Right now, we allow 1.25,

1 1.45 with Med bonus.

2 MR. PARDO: Right.

3 MR. SIEMON: Right.

4 MR. STEFFENS: Are you saying, leave that in
5 place?

6 MR. PARDO: The bonus?

7 MR. SIEMON: I think that's your choice. As
8 you know, when we originally did our thinking, we
9 recommended eliminating that bonus, but I think
10 that's been -- a determination not to do that.

11 MR. PARDO: Would you agree, also, that, you
12 know, it's good to be able to provide an incentive
13 for that owner not to, you know, go into this pool of
14 other owners and then build more mega-buildings
15 downtown?

16 MR. SIEMON: That's clearly a policy
17 choice. I mean, I --

18 MR. PARDO: No, but I mean, this would --

19 MR. SIEMON: Yeah.

20 MR. PARDO: This would create an incentive,
21 versus a disincentive, in other words --

22 MR. SIEMON: Yes. An incentive to build
23 smaller buildings, that's correct.

24 CHAIRWOMAN MORENO: So your Code, the Code
25 that we are reviewing, proposes 1.25 FAR, no

1 parking --

2 MR. SIEMON: Right.

3 CHAIRWOMAN MORENO: -- and 1.45 with the Med

4 bonus? Is that already in the Code, or is --

5 MR. SIEMON: That is in the Code and would

6 now be restored.

7 MR. PARDO: That exists.

8 CHAIRWOMAN MORENO: Would now be restored.

9 MR. SIEMON: Right.

10 MR. KORGE: Both are in the Code.

11 MR. RIEL: Yes.

12 CHAIRWOMAN MORENO: Yes.

13 MR. SIEMON: That's correct.

14 MR. PARDO: Right.

15 CHAIRWOMAN MORENO: And if we wanted to add

16 Michael's idea, we would have to add it?

17 MR. SIEMON: That's correct, yeah.

18 MR. PARDO: And we're talking about only in

19 the CBD area.

20 MR. SIEMON: That's correct.

21 CHAIRWOMAN MORENO: Okay. Next one?

22 MR. SIEMON: The --

23 CHAIRWOMAN MORENO: The one per 350, what

24 are we suggesting? Are we leaving it at 1/350, or

25 are we coming down on that?

1 MR. PARDO: Coming down, you mean --

2 CHAIRWOMAN MORENO: One to 300 or --

3 MR. PARDO: You mean, requiring more
4 parking?

5 CHAIRWOMAN MORENO: Yeah.

6 MR. RIEL: I think what -- how we left that
7 is, we -- it's remained at one to 350, but we kind of
8 deferred to, obviously, the Parking Advisory Board in
9 terms of what they would suggest, and they have
10 suggested somewhere one to 300, but we can certainly
11 reduce that further, which means more parking.

12 CHAIRWOMAN MORENO: Eric, isn't there a
13 nationwide standard, some studies that have been done
14 as to what --

15 MR. RIEL: It's different for every city. I
16 can tell you this, some of them have one to 200, some
17 of them have one to 200. I mean, some have one to
18 200 plus guest spaces. It's really -- it's all
19 across the Board.

20 MR. PARDO: If you go to New York City and
21 Chicago, they have a transit system that we --

22 CHAIRWOMAN MORENO: Yeah, but let's forget
23 about New York City or Chicago. What about City of
24 Miami, City of Miami Beach, City of Hialeah? What
25 are they doing?

1 MR. RIEL: We can get that information. I
2 know we do have that information.

3 MR. PARDO: But why would you compare
4 yourself to Hialeah? I don't understand.

5 CHAIRWOMAN MORENO: I just want to know the
6 gamut of our county. I mean, they're all --

7 MR. PARDO: But I think it's --

8 CHAIRWOMAN MORENO: Obviously, Hialeah is
9 one extreme.

10 MR. PARDO: Yeah.

11 CHAIRWOMAN MORENO: Miami Beach is another.
12 But a city that has mass transit like Chicago or New
13 York --

14 MR. PARDO: Cristina, but the ULI, the
15 national standard, is based on major cities. It's
16 not based on cities like Hialeah.

17 CHAIRWOMAN MORENO: They're just cities
18 that have decent public transportation. You know,
19 you can't compare Miami to New York City, that has a
20 subway system, or to Chicago, that has a subway
21 system.

22 MR. PARDO: But the national standards are
23 based on major cities, not like Hialeah. That's why
24 I'm asking, why would you compare Hialeah?

25 CHAIRWOMAN MORENO: I was just suggesting --

1 MR. SIEMON: Are you talking about just in
2 the CBD?

3 CHAIRWOMAN MORENO: -- a gamut of cities --

4 MR. PARDO: Other cities? Other cities?

5 CHAIRWOMAN MORENO: -- in Dade County.

6 MR. PARDO: Okay.

7 MR. STEFFENS: Can we also find out what
8 kind of parking requirements banks are requiring
9 developers to provide?

10 MR. RIEL: Banks?

11 CHAIRWOMAN MORENO: Lenders.

12 MR. STEFFENS: Banks. Lenders won't let
13 people build buildings without parking, and they
14 probably have a fairly good feel of the market.

15 MR. SIEMON: I'm going to step right into
16 it, but that's the way it is. I think that I would
17 tell you that the average right now in South Florida,
18 outside of Downtown Miami, which is really the
19 only -- maybe a little bit in Downtown Fort
20 Lauderdale. Commercial retail that is primarily
21 reliant on automobiles is somewhere between the one
22 space per 200 and one space per 250 square feet, and
23 I think you won't find anybody outside that. And so
24 one per 300 is very light.

25 MR. STEFFENS: Commercial retail?

1 MR. SIEMON: Commercial retail.

2 MR. KORGE: What about office?

3 MR. SIEMON: Office is probably three per
4 thousand, I would guess is the average, so that's
5 333.

6 MR. KORGE: I'm sorry?

7 CHAIRWOMAN MORENO: Three per thousand.

8 MR. SIEMON: Three per thousand, and I'm
9 talking now about uses that are not in highly
10 transient served, where you have a lot of alternative
11 modes of transportation; a mode of split probably of
12 20 percent of your daily trips are pedestrian or
13 transient.

14 MR. PARDO: Charlie, you know that in the
15 City of Miami, they require, for example, for an

16 RU-3M or RU-4M apartment, they'll require the amount
17 of parking, you know, based on how many bedrooms you
18 have in those, and then on top of that, they require
19 that you have 10 percent visitor parking.

20 Now, across the street, in Unincorporated
21 Dade County, they don't require the visitor parking,
22 but the funny thing is, the same Unincorporated Dade
23 County, for a townhouse project, requires that you
24 have .25 space for visitors, but they don't recognize
25 visitors for apartments.

1 You know, some of these codes, and when we
2 look and we start comparing, it's a little dangerous,
3 because they were written many years ago. They did
4 the best that they could then, but then you have
5 disparities right within their own zoning code.

6 In other words, you mean to tell me that in
7 certain apartments, you know, certain apartment
8 zoning, you don't have visitor parking, but in
9 townhouses you do, or vice versa? I --

10 CHAIRWOMAN MORENO: Can we get a
11 recommendation?

12 MR. KORGE: Well, that's what I was going to
13 get to. You said one for 200 to 250 for commercial
14 retail, and one per 333 or thereabouts, three per
15 thousand, for commercial office.

16 MR. SIEMON: For office, professional
17 office.

18 MR. KORGE: Right.

19 MR. SIEMON: That's not corporate office.
20 That's multi-tenant office buildings.

21 MR. STEFFENS: How would commercial retail
22 change for restaurants?

23 MR. SIEMON: Well, there's some communities
24 that deal with it separately and they have a separate
25 category, and there are two standards that I'm

1 familiar that are used in South Florida. One is on
2 gross floor area. The other is on customer service
3 area. Because that's really where the service demand
4 is drawn, and the average, I would guess, for
5 effective, and probably what a good lender is looking
6 for on a free-standing restaurant, is something on
7 the order of nine per gross thousand square feet, or
8 about one every 50 square feet of customer service
9 area.

10 MR. PARDO: When you're in the CBD area, in
11 the CBD area --

12 MR. SIEMON: A different situation.

13 MR. PARDO: -- it's a completely different
14 situation, and your example of the restaurant is --
15 you know, City of Coral Gables does it based on
16 gross, and Unincorporated Dade County does it based
17 on gross plus one per 50 for the patron area, seating
18 area. So they -- when you look at both of them and
19 you actually tabulate the same restaurant in one and
20 the other, they're about the same. You know, it's --
21 at the end of the day, you end up, unless it's a huge
22 restaurant --

23 MR. SIEMON: You're talking about a rule of
24 general application, in any event.

25 MR. STEFFENS: You're going to make a

1 recommendation to us on this?

2 MR. SIEMON: We certainly can. If you want
3 us to give you our best recommendation --

4 CHAIRWOMAN MORENO: Yes.

5 MR. STEFFENS: With --

6 MR. SIEMON: -- for your community, for each
7 of these categories, we'd be glad to do that. We
8 have not done that before.

9 MR. STEFFENS: Could you, along with the
10 recommendation, give the source --

11 MR. SIEMON: We'll document the source of
12 the information that we're giving.

13 CHAIRWOMAN MORENO: Great. That's --

14 MR. SIEMON: By the way --

15 MR. STEFFENS: In a little matrix?

16 MR. SIEMON: By the way -- Well, I don't
17 know if I can get it in a matrix. Wendy almost

18 killed me when I did a matrix last time for you.

19 MR. RIEL: No, killed me.

20 MR. SIEMON: Interestingly, I have a
21 private study, it's proprietary, but the only
22 variable we found on -- We were looking at our
23 bedrooms and square footage, a variable in terms of
24 parking demand, and we found, interestingly, that the
25 curve is, if you put it on value per square foot,

1 starting on the left to right, and it goes from zero
2 to -- up to a thousand dollars per square foot in the
3 survey, and it's very high at the low end and goes
4 down in the middle, and it's up at 3.4 per unit at
5 the high end, and that's --

6 MR. PARDO: Where was your proprietary one
7 done, what city?

8 MR. SIEMON: It was done in a series of
9 communities in Broward and Palm Beach Counties, which
10 I don't think are very, in terms of parking demand,
11 dissimilar to Coral Gables. I'd never use it in
12 Miami, but I think in Coral Gables, it's pretty
13 informative. But the variable --

14 MR. PARDO: Right.

15 MR. SIEMON: -- is the value -- the cost or
16 the value of the property, not the number of
17 bedrooms, et cetera.

18 MR. PARDO: You know, Charlie, you could get
19 a real good handle on the residential end of it.
20 That's pretty simple. But when you start getting
21 into commercial uses, commercial uses vary so much
22 because, for example, if you have a phone bank, you
23 pack those people in that office like sardines, and
24 obviously, you're going to have more cars.

25 If you have a medical office, you're going

1 to pack them in a lot more than if you have
2 another -- let's say a title company or some other
3 type of company.

4 Commercial uses, the way that the Code
5 exists today tries to address those different
6 commercial uses, and it does a pretty good job, and I
7 think that it just doesn't require enough parking,
8 because what we were able to do 25 years ago required
9 more square footage of office use per person than it
10 does today, simply through the use of computers. You
11 could have more people doing substantially more work
12 but in much less square footage.

13 So you could have an office where before,
14 you might have, let's say, six office workers in
15 1,800 square feet. Today, you might be able to have
16 12 office workers within the same square footage.
17 So, therefore, your real impact, because of lack of
18 public transportation, now becomes on that use,
19 because of new technology.

20 Would you agree with that, Charlie?

21 MR. SIEMON: Yeah. I mean, the standard
22 rules are increasingly ineffective because the change
23 in technology -- the population per square foot of
24 office now varies dramatically, depending on where
25 you are. Suburban square footage is way down right

1 now. Urban square footage, for reasons I don't
2 understand, is up.

3 MR. PARDO: Because of traffic.

4 MR. SIEMON: And so, whatever you're doing,
5 you are forced to deal with rules of generality, and
6 I think we can give you some recommendations --

7 CHAIRWOMAN MORENO: Okay.

8 MR. SIEMON: -- of good rules of generality,
9 but, you know, what is -- IBM building in Boca Raton
10 was at one per -- one employee per 250,000 -- 250
11 square feet --

12 MR. PARDO: Right.

13 MR. SIEMON: -- in 1985, and today the
14 multi-tenant entities that are occupying it have one
15 employee every 128 square feet.

16 MR. PARDO: And you see, that's what I'm
17 concerned with, that we must --

18 MR. SIEMON: Single --

19 MR. PARDO: We must consider that, and we
20 have to be so careful, and that point that you made
21 about suburban -- suburban office space going up
22 exponentially, it's the only way that people have to
23 keep their rents down, because of the cost of land,
24 and also, workers are getting a little tired of
25 getting into traffic for an hour and a half, average,

1 nation -- no, I'm sorry, an hour and 45 minutes,
2 nationwide, one way, to their office destination.

3 CHAIRWOMAN MORENO: Okay, let's conclude,
4 then. You're going to come up with recommendations
5 on new parking requirements for each of the uses?

6 MR. SIEMON: And we would join in the
7 Parking Advisory Board's recommendation that you
8 don't have a different standard adjacent to
9 residential. You ought to have the right standard
10 for retail --

11 CHAIRWOMAN MORENO: For everybody.

12 MR. PARDO: -- wherever it is.

13 CHAIRWOMAN MORENO: The standard should be
14 what is necessary to park the use.

15 MR. SIEMON: The use, period.

16 CHAIRWOMAN MORENO: Okay, and you agree with
17 the Parking Advisory Board that you don't want shared
18 parking, as well as with Mr. Carlson, because of the
19 nature of the development --

20 MR. SIEMON: We think there's very limited
21 opportunity, given the pattern of development, even
22 in your CBD.

23 CHAIRWOMAN MORENO: Right, because retail
24 and residential overlap, basically.

25 MR. SIEMON: Right.

1 CHAIRWOMAN MORENO: And that's the mixed use
2 we see, is retail and residential.

3 MR. SIEMON: Or office and retail.

4 CHAIRWOMAN MORENO: Is that the end of the
5 parking --

6 MR. SIEMON: That's the end of my parking
7 contribution.

8 CHAIRWOMAN MORENO: Okay.

9 Mr. Carlson or Mr. Donsky, do you have any
10 further comments on that?

11 MR. WILLIAM CARLSON: No.

12 MR. PARDO: I have a question for Mr.
13 Carlson.

14 MR. WILLIAM CARLSON: Mr. Donsky has gone.

15 CHAIRWOMAN MORENO: Okay.

16 MR. WILLIAM CARLSON: If you have any
17 further questions of me --

18 MR. PARDO: I have a question for you,
19 Bill. The North Gables apartment district --

20 MR. WILLIAM CARLSON: Yes.

21 MR. PARDO: -- we studied that many years
22 ago, and we came up with a very thorough report and,
23 you know, basically, it was ignored.

24 My question to you is, there's a huge
25 parking problem up in that area, and it's only going

1 to get worse, because of the future development of
2 the North Ponce area and other projects that are
3 being built, apartment buildings that are being
4 built.

5 The more that gets developed, would you
6 consider looking at the parallel parking
7 configuration on some of those smaller streets,
8 conceptually, and looking at the potential of turning
9 some of those streets one way and going in with
10 angled parking and tripling or quadrupling the amount
11 of on-street parking?

12 MR. WILLIAM CARLSON: As to what you get
13 from an angle, it's one and a half to one.

14 MR. PARDO: Okay.

15 MR. WILLIAM CARLSON: You get one and a half
16 stalls angle, to one stall parallel. Most
17 definitely. It's a Public Works issue, and would I
18 be favorably disposed toward adding additional
19 parking if, from a traffic engineering perspective,
20 it can be done? Yes.

21 MR. PARDO: Because that was one of the
22 recommendations we made 15 years ago, and the thing
23 is that right now, we can't afford very much in the
24 City, and we already own the public right-of-way and
25 it may not take a huge investment to be able to

1 provide parking relief to those areas.

2 MR. WILLIAM CARLSON: The big issue there is
3 one from traffic engineering. There is a very strict
4 requirement in terms of radius of turn --

5 MR. PARDO: Right.

6 MR. WILLIAM CARLSON: -- when you're backing
7 out of an angled stall.

8 MR. PARDO: Right.

9 MR. WILLIAM CARLSON: And from a parking
10 perspective, it's all plus plus, so I'm in favor of
11 it, as long as the traffic engineering positioning
12 can be worked out effectively, of course.

13 MR. PARDO: Well, you know, how can we
14 get -- you know, what do we have to do to get, you
15 know, Parking and Public Works to start looking at
16 something like that? I mean, I know we're in the
17 middle of this, but this is --

18 CHAIRWOMAN MORENO: Can you meet with Mr.
19 Carlson and the Public Works guy and get that going,
20 and we can move on, on this Zoning Code? That would
21 work. I think that would be -- You have more --

22 MR. WILLIAM CARLSON: I don't have to be
23 convinced. I'm always in favor.

24 MR. PARDO: You mean, not as a Board member,
25 as a private citizen?

1 CHAIRWOMAN MORENO: As a Board member, if
2 you want, address it with them, rather --

3 MR. PARDO: Because I --

4 CHAIRWOMAN MORENO: Because that's not part
5 of the Zoning Code rewrite.

6 MR. PARDO: Right, because --

7 CHAIRWOMAN MORENO: That's a problem you've
8 identified, and I encourage you to go forward with
9 it.

10 MR. PARDO: And the reason I bring it in is,
11 I think it's very important, and it was brought up in
12 writing to the Planning Board, through the Blue
13 Ribbon Committee, for the North Gables apartment
14 district, and it's sitting on a shelf there at the
15 Planning Board, and we're sitting here, and I'm
16 trying to figure out why, you know, if we're looking
17 at parking and we're looking at off-street parking
18 requirements and we're looking at the public parking
19 garages, which is nothing more than the consolidation
20 of public parking that's off-street, I'm asking for
21 that, you know, to be considered, simply because it
22 may not be a Code requirement, but it does provide
23 that relief that we need in that area, that we have
24 been making changes to, on this Board, in that area.
25 So, you know, this is -- this is a way that

1 you're discussing -- we are discussing now the
2 possibility of parking fees, parking impact fees.
3 We're discussing these things, and the only reason
4 I'm bringing it up this way is because there isn't a
5 vehicle in the Code rewrite, but it does affect all
6 development.

7 MR. WILLIAM CARLSON: Well, from my
8 perspective, the impact fee is a necessity. It is
9 that when, in fact, Code is not met with parking, we
10 definitely need to be looking seriously at impact
11 fees.

12 MR. PARDO: Cristina, wouldn't it be a
13 better vehicle for this Board to direct our Planning
14 Director to address this issue, through the Manager's
15 office or through the City Commission, to look at it
16 and --

17 MR. WILLIAM CARLSON: Impact fees can go a
18 very long way toward paying for future parking garage
19 construction as it becomes necessary.

20 MR. PARDO: And it can also --

21 CHAIRWOMAN MORENO: Mr. Siemon, do we have
22 an impact fee recommendation in this -- the Zoning
23 Code rewrite?

24 MR. SIEMON: We do not have one at this
25 point.

1 MR. RIEL: That's part of some additional
2 work that will be completed at a later date.

3 MR. KORGE: That will be a major project.

4 CHAIRWOMAN MORENO: Yeah.

5 MR. RIEL: Yes, it is, and in response to
6 the North Ponce study, I provided you last week each
7 of the recommendations from that study and provided
8 you a status of where it's at in the City. That was
9 in last week's packet, and I can get that for you, as
10 well. On that particular issue, I don't know what
11 the answer is, but of the 30 or 40 things that were
12 identified, I provided a response for each of those,
13 so it is not just sitting on a shelf.

14 CHAIRWOMAN MORENO: Okay.

15 MR. PARDO: That one's not on there.

16 CHAIRWOMAN MORENO: All right, let's go on
17 to the --

18 MR. SIEMON: But I just want to make sure
19 everybody -- I don't want to have any
20 misunderstandings. In order to have a payment in
21 lieu of program for parking, you have to have in
22 place an actual program for the production of that
23 parking.

24 MR. KORGE: Right.

25 MR. SIEMON: That means identified,

1 scheduled locations and provisions. You can't just
2 collect the money and put in the bank on a hope and a
3 prayer that some day you'll use it.

4 MR. WILLIAM CARLSON: Oh, absolutely.

5 MR. SIEMON: I just want that to be clear.

6 CHAIRWOMAN MORENO: So right now, our Zoning
7 Code proposal does not address --

8 MR. SIEMON: That's correct.

9 CHAIRWOMAN MORENO: -- impact fee in lieu of
10 parking. Everything we're doing is requiring parking
11 on site.

12 MR. SIEMON: Or exceptions.

13 MR. RIEL: Correct.

14 CHAIRWOMAN MORENO: That would be a
15 future --

16 MR. RIEL: Yes.

17 CHAIRWOMAN MORENO: -- project, after the
18 Zoning Code rewrite, to study that as a way of giving
19 relief to parking requirements.

20 MR. WILLIAM CARLSON: Not only parking
21 garage development, but the purchase of land that may
22 be available to be used for parking garage
23 construction.

24 CHAIRWOMAN MORENO: Is there possibility to
25 increase, for example, the Andalusia parking from two

1 stories to five stories?

2 MR. WILLIAM CARLSON: Yes.

3 CHAIRWOMAN MORENO: Okay.

4 MR. WILLIAM CARLSON: Absolutely. That's
5 another issue. You know, I know that you were
6 discussing the private and public participation. I
7 have a real problem with that, because I think that
8 ultimately, the public parking component, if it
9 doesn't suffer in the initial phases, there's a
10 tendency for it to suffer later on, because the
11 bottom line doesn't support the public component.

12 CHAIRWOMAN MORENO: Right.

13 MR. WILLIAM CARLSON: So it becomes a
14 secondary consideration, and we lose control.

15 CHAIRWOMAN MORENO: So you agree with the
16 Parking Advisory Board that that public parking
17 should remain public?

18 MR. WILLIAM CARLSON: Public, correct.

19 CHAIRWOMAN MORENO: So that you have the
20 ability to build up?

21 MR. WILLIAM CARLSON: Yes.

22 CHAIRWOMAN MORENO: Okay.

23 (Thereupon, Mr. Pardo left the Commission
24 Chambers.)

25 CHAIRWOMAN MORENO: All right. Let me just

1 be clear that I understand, Mr. Siemon, where we
2 stand on our parking proposals.

3 The current proposal eliminates the shared
4 parking and eliminates the differences between the
5 CBD and the other areas, or not?

6 MR. WILLIAM CARLSON: It makes them the
7 same.

8 MR. SIEMON: Makes them the same.

9 CHAIRWOMAN MORENO: Makes everything the
10 same. You're going to come up with proposals on the
11 parking requirements that we will have?

12 MR. SIEMON: That's correct.

13 CHAIRWOMAN MORENO: And that's where we
14 stand right now. No impact fees at the present time.
15 That's part of a long-term project, where Mr. Carlson
16 would have to identify projects that can support the
17 imposition of that impact fee.

18 MR. WILLIAM CARLSON: Which I propose to do.

19 CHAIRWOMAN MORENO: Okay.

20 MR. SIEMON: And the only other thing is, we
21 have added a parking standard for a number of uses
22 that were otherwise permitted in the Code, but didn't
23 have a standard. That, we have already done, and we
24 will go back and check those as we go through the --

25 CHAIRWOMAN MORENO: As part of your --

1 MR. SIEMON: Right.

2 CHAIRWOMAN MORENO: -- recommendation for
3 parking requirements. Okay.

4 Is there anyone in the public that wants to
5 address this, on the parking issue only?

6 MRS. SALDARRIAGA: I was not sworn in.

7 CHAIRWOMAN MORENO: You need to sign in and
8 you need to be sworn in, please.

9 (Inaudible comments between Board members)

10 MS. SALDARRIAGA: My name is Phyllis
11 Saldarriaga. I live at 2711 Segovia Street.

12 I have something about the parking,
13 listening to everybody. Mr. Steffens mentioned that
14 you want to encourage people to keep small
15 buildings. Well, it's very difficult, since people
16 are allowed to aggregate land and build larger
17 buildings. Why not, instead of -- you can encourage
18 people to build smaller buildings by charging -- the
19 people who want to build larger buildings and
20 aggregate land, you can charge them a fee to have the
21 space that you have now for parking -- to charge them
22 a fee so that you can build up the parking, since the
23 City doesn't have the money to build more levels of
24 parking, for instance, on Andalusia. Why can't we
25 have -- You people were thinking about or somebody

1 was thinking about building an apartment building or
2 an office building on Andalusia and using that
3 parking space that belongs to the City of Coral
4 Gables, but I think that we should keep that as a
5 parking garage so we can build up the levels.

6 CHAIRWOMAN MORENO: We have agreed to that.

7 MRS. SALDARRIAGA: You have agreed to that?

8 CHAIRWOMAN MORENO: Yes.

9 MRS. SALDARRIAGA: Oh, good. And I'm just
10 saying, charge people a fee, if you don't -- you
11 know, if they're going to aggregate properties,
12 charge them a fee, which would go to building more
13 levels.

14 All right, that's all I have.

15 CHAIRWOMAN MORENO: Thank you very much.

16 (Inaudible discussion between Board
17 members)

18 CHAIRWOMAN MORENO: Eric, I'd like to take
19 a break, but could you tell us what our next topic
20 will be, so that the public knows?

21 MR. RIEL: First, I just want to make sure I
22 interpret the Board's recommendation on this --

23 CHAIRWOMAN MORENO: Okay.

24 MR. RIEL: -- because I want to make sure
25 I'm not putting down here -- Basically, you're

1 agreeing with the Parking Advisory Board
2 recommendations?

3 MR. KORGE: We haven't taken a vote on
4 anything.

5 MR. RIEL: I'm not asking you vote. I
6 just -- well, I need to have something to write down
7 in the column here, in terms of --

8 MR. KORGE: Could I make a suggestion? I
9 think, for me at least, I'd like to hear the
10 recommendation that Charlie is going to bring us.

11 MR. RIEL: I've got that information. I've
12 got that written down.

13 MR. KORGE: And then, based on that, we
14 can, I mean --

15 CHAIRWOMAN MORENO: Make a recommendation.

16 MR. KORGE: Right, make a recommendation.

17 MR. RIEL: Fine.

18 CHAIRWOMAN MORENO: I think it --

19 MR. KORGE: Until then, nothing has been
20 decided.

21 CHAIRWOMAN MORENO: Okay, but we --

22 MR. RIEL: I just want to make sure I
23 capture --

24 CHAIRWOMAN MORENO: I think, you know, our
25 consensus seems to be, we accept the recommendation

1 of deleting the shared parking, and we're looking to
2 Mr. Siemon to give us some ideas on parking
3 requirements.

4 MR. KORGE: Would you like a motion on
5 deleting the shared parking right now?

6 CHAIRWOMAN MORENO: Would you like that?

7 MR. RIEL: That's -- yeah, that would make
8 it clearer.

9 MR. KORGE: I move that we delete shared
10 parking.

11 MR. STEFFENS: Second.

12 CHAIRWOMAN MORENO: Vote? Call the roll.

13 MS. MENENDEZ-DURAN: Tony Gonzalez?

14 MR. GONZALEZ: Yes.

15 MS. MENENDEZ-DURAN: Tom Korge?

16 MR. KORGE: Yes.

17 MS. MENENDEZ-DURAN: Felix Pardo?

18 MR. STEFFENS: Absent.

19 MS. MENENDEZ-DURAN: Michael Steffens?

20 MR. STEFFENS: Yes.

21 MS. MENENDEZ-DURAN: Cristina Moreno?

22 CHAIRWOMAN MORENO: Yes.

23 MR. RIEL: Okay.

24 CHAIRWOMAN MORENO: What will be our next
25 topic, before we go?

1 MR. RIEL: The next topic is -- bear with
2 me here -- Policy 5, Planned Area Development,
3 Page 4.

4 CHAIRWOMAN MORENO: Okay. So our next topic
5 will be Planned Area Development. We'll take a
6 ten-minute break.

7 (Thereupon, a recess was taken, after which
8 Mr. Pardo rejoined the Board.)

9 CHAIRWOMAN MORENO: Are we ready?

10 MR. SIEMON: We are ready. We're on the top
11 of Page 4, Policy 5.

12 There are two miscellaneous zoning district
13 issues that we've identified. The first is the
14 planned area development process. We have proposed
15 two basic changes to that. One is to increase the
16 PAD FAR, floor area ratio, from 2.5 to 3.0, with 3.5
17 with the bonus, where the bonus is available, and the
18 other is to reduce the minimum parcel size to two
19 acres. We think, in a built environment, using a
20 planned -- an effective planned area development
21 device is a very efficient way of promoting quality
22 infill development, and that's the underlying
23 motivation for these changes.

24 CHAIRWOMAN MORENO: Can you explain to me a
25 little bit? We haven't had planned area developments

1 before this Board, that I can remember. We've had
2 the mixed-use overlay district. Is this in lieu of
3 or --

4 MR. RIEL: We've had two PADs that have come
5 before the Board.

6 MR. KORGE: One on Ponce and --

7 MR. PARDO: The Burger King.

8 MR. KORGE: -- Riviera?

9 MR. RIEL: And the names are just slipping
10 my mind.

11 MR. KORGE: Ponce and Riviera?

12 MR. RIEL: One was across from the hospital,
13 Doctors' Hospital.

14 CHAIRWOMAN MORENO: Oh.

15 MR. RIEL: The other one --

16 CHAIRWOMAN MORENO: The one that's at --

17 MR. RIEL: -- was across from the Christmas
18 tree lot on U.S. 1.

19 MR. KORGE: The one on Ponce and Riviera.

20 MR. RIEL: The Bahamian Villa -- no, Bermuda
21 Village is one name, and I can't remember the other.

22 CHAIRWOMAN MORENO: The one Ms.
23 Plater-Zyberk designed, right?

24 MR. RIEL: That was a PAD.

25 MR. PARDO: No, but the Burger King site was

1 a PAD, also.

2 MR. RIEL: That went through this Board.

3 That was prior to --

4 MR. PARDO: Right. It was actually
5 approved, and then Burger King backed out after they
6 approved it, and they went to Blue Lagoon, or --
7 yeah, Blue Lagoon.

8 MR. RIEL: Yeah, actually, that went through
9 a different process. That went through a -- the
10 State.

11 CHAIRWOMAN MORENO: Okay, anyway, how would
12 that work now with this? Because I see that you're
13 eliminating the mixed D3 district.

14 MR. STEFFENS: Oh, you're just talking about
15 the --

16 MR. SIEMON: I'm just talking about the
17 first one right now.

18 MR. KORGE: He's right there.

19 CHAIRWOMAN MORENO: Oh, okay. I'm sorry.

20 MR. SIEMON: The first one. Mixed use is
21 separate.

22 CHAIRWOMAN MORENO: Okay.

23 MR. SIEMON: Then you have three -- If there
24 are no other questions about that first issue, the
25 second issue is --

1 MR. KORGE: Well, yeah, I have a question.

2 MR. SIEMON: Okay, I'm sorry.

3 MR. PARDO: Lots of questions.

4 MR. KORGE: Why are you recommending that?

5 MR. SIEMON: The reduction in the lot area
6 is to -- we think it's a useful tool.

7 MR. KORGE: Yeah.

8 MR. SIEMON: And we think looking at what
9 people want to do and what the opportunity to provide
10 an incentive, the additional .5, which brings it into
11 line with a number of other classifications -- why
12 would you use the PAD and give up an FAR that's
13 otherwise achievable in a district?

14 MR. KORGE: Oh, I see. So, if they don't
15 use a PAD, they're in a lower --

16 MR. SIEMON: They're in a district that
17 actually has a higher FAR.

18 MR. RIEL: Right. Their actual underlying
19 zoning allows for more intensive use.

20 MR. KORGE: Okay.

21 MR. SIEMON: They penalize themselves to use
22 a device that we think will create better design and
23 better outcome.

24 MR. KORGE: Right.

25 MR. PARDO: Charlie, can you -- Charlie, can

1 you explain where PADs can be used in the City?

2 MR. RIEL: They can be used anywhere.

3 MR. SIEMON: Anywhere.

4 MR. PARDO: Single-family residential areas?

5 MR. SIEMON: No, excuse me.

6 MR. PARDO: Townhouse areas that we've
7 developed right now?

8 MR. RIEL: Yes.

9 MR. PARDO: Apartment areas?

10 MR. SIEMON: MF 1, MF 2, CL, C --

11 MR. PARDO: Let's go back to the
12 apartment --

13 MR. SIEMON: -- I.

14 MR. PARDO: -- the apartment district, the
15 experimental district that we developed. Now you
16 can -- That's what it's called, right, the
17 experimental -- the one that we're using as a test
18 area. Now, in that area, if you -- What is the
19 advantage to, let's say, a developer? Can he build
20 more now within that same district that we just
21 approved something that we never even --

22 MR. SIEMON: It's actually a device that
23 allows a little more flexibility to fit a project,
24 and I think the Plater-Zyberk project across from
25 Doctors' Hospital is the best example of how

1 something that doesn't fit the standard mold, how you
2 can, on some rational basis, manipulate the
3 standard -- the design process to allow it on a
4 case-by-case project.

5 MR. PARDO: On Liz's project, though, on
6 Liz's project, one of the things about that was that
7 there were a certain amount of townhouse properties,
8 and then those townhouse properties that had been
9 vacant for many years were bordered on one side by
10 the Riviera golf course, on the other side and
11 directly across the street by the use of the
12 hospital, which is the S use of the hospital. The
13 difference there was that it was in a very controlled
14 sliver which was already built out, except for one
15 site of duplexes already when you were running to the
16 west.

17 The question I have and the problem I have
18 is that in that particular case, this is a great
19 device to avoid variances, based on the way the Code
20 is written today and tomorrow, but at the same time,
21 if you allow PADs anywhere, within any district that
22 doesn't have those limitations, you could have a
23 conceivable problem. That commercial area across the
24 street -- This applicant was able to come in and
25 actually reduce the amount of permitted units just by

1 taking lot by lot, times two for the units, and they
2 were able to do something, and they actually -- part
3 of their application was that they actually reduced
4 the amount of overall units, if memory serves me
5 right.

6 So my question -- and the danger about this
7 is that all of a sudden you take the Code
8 requirements, let's say, in this apartment district,
9 and basically, you've taken off all constructs, all
10 limitations from a design standpoint. So I'm for,
11 you know, great design and all that, but the other
12 thing is, I'm also for controlling, you know, what --
13 what the rules are, and my question is, all of a
14 sudden, with a PAD, you could eliminate all setbacks
15 in that area.

16 MR. RIEL: Let me respond. Let me respond.

17 MR. PARDO: You could use it as an entity --
18 and the other thing is, Eric, that one of the things
19 that Liz, in her presentation, was, you know, George
20 Merrick had X amount of villages that were never
21 executed, and this could conceivably be looked at as
22 a future village.

23 I don't have a problem with that product
24 after it was built, but I have a lot of -- a lot of
25 concern, you know, about, in the wrong hands, what

1 that could do.

2 MR. RIEL: First off, the PAD process, the
3 way it's currently written, and Charlie went over a
4 couple minor changes, it's a process that requires
5 public hearing review. It comes before this Board
6 and the City Commission. It has to go through three
7 required public hearings, one here, two at the City
8 Commission.

9 There's criteria that allow flexibility in
10 design and allow for reductions in setbacks and
11 reductions -- and increases in open space. There's
12 all types of flexibility. It's a good tool that
13 Staff uses to work with a property owner, as well as
14 with the adjoining neighborhood. In other words, we
15 have a lot of flexibility in terms of requiring more
16 open space, more setbacks, if it's adjacent to a
17 single-family home, rather than just a project going
18 through the Board of Architects and going to the
19 Board of Adjustment just on setback, and the site
20 plan basically doesn't go, except for the Board of
21 Architects, and the Board of Adjustment only deals
22 with the variance issue.

23 So, in my judgment, and I've utilized PADs
24 in a number of cities that I've worked for, it's a
25 great tool. It's very flexible for where both

1 parties -- and when I say both parties, the property
2 owner and developer, as well as the City, and there's
3 an established public benefit to the design, and I
4 find it a very, very -- a process that just, I think,
5 both sides win.

6 MR. PARDO: What is the FAR maximum in that
7 area we were just discussing right now?

8 MR. RIEL: The FAR maximum in that area?

9 MR. PARDO: Right.

10 MR. RIEL: I'm not sure. I mean, that
11 application --

12 MR. KORGE: As I understand the changes,
13 you're basically taking away disincentives to go the
14 PAD route, because you're going to conform the FAR to
15 the --

16 MR. RIEL: Underlying.

17 MR. KORGE: -- the underlying FAR --

18 MR. RIEL: Correct.

19 MR. KORGE: -- that would be allowed if they
20 don't opt for a PAD.

21 MR. RIEL: Correct. What happened was, they
22 did -- when they talked about the PAD process in the
23 early eighties, they went through, created the
24 ordinance, and then at one of the last hearings they
25 reduced the FAR, and by reducing that FAR, as Charlie

1 indicated, it's less than what you're permitted by
2 right. So no one has come through, in the 25 years
3 that we've had the regulations, except for in the
4 past two years, and those projects have been
5 residential projects.

6 MR. PARDO: So let's say that your side
7 setback in this apartment area, which is bordered by
8 single-family residential, is 20 feet.

9 MR. RIEL: Okay.

10 MR. PARDO: Staff -- Staff can say, you
11 know, Mr. Developer, or Miss Developer, I think that
12 five feet -- they could live with five feet. Where's
13 the protection for the single-family?

14 MR. RIEL: We could also say -- you could
15 make that 20 feet.

16 MR. KERGE: They have public hearings.

17 CHAIRWOMAN MORENO: There's three public
18 hearings.

19 MR. GONZALEZ: It has to come here.

20 MR. PARDO: Okay, let's talk about the
21 public hearing process. The public hearing is, the
22 public can come out, affected residents can come
23 out. But if Staff recommends it, in the eyes of the
24 court, it is a professional recommendation that
25 basically will trump the voice of the neighbor that's

1 directly affected.

2 MR. STEFFENS: It doesn't trump my voice.

3 CHAIRWOMAN MORENO: It doesn't trump your
4 voice.

5 MR. PARDO: No.

6 CHAIRWOMAN MORENO: I've never seen any of
7 us stopped by the fact that Staff is recommending
8 it. We address it and we hear the people from the
9 public, and they recommended a project, I remember,
10 on that fireman's --

11 MR. RIEL: It was denied by this Board,
12 seven-zero.

13 CHAIRWOMAN MORENO: And it was recommended
14 by them.

15 MR. PARDO: Right, but --

16 CHAIRWOMAN MORENO: So, I mean, if there's a
17 public hearing, there's plenty of protection.

18 MR. PARDO: But what I'm saying is that
19 there's certain standards, and the standards that
20 exist --

21 CHAIRWOMAN MORENO: And sometimes those
22 standards need to have flexibility, and that's what
23 the PAD does.

24 MR. PARDO: Well --

25 MR. RIEL: Those standards --

1 MR. KORGE: Or else you end up with a worse
2 project.

3 CHAIRWOMAN MORENO: Yeah.

4 MR. PARDO: No, but this is what you call
5 basically, you've taken -- you know, you've taken
6 certain formulas and certain requirements and you've
7 basically said, "You know what? Now we're going to
8 go one step beyond. Now there are no requirements."
9 It's all completely subjective.

10 Now, if one of the reasons that we're going
11 through this Code rewrite is to clean it up and do
12 these things, doesn't it bother you as far as the
13 possibility that you may be allowing something that
14 will occur in the future that takes away some of the
15 protections that are there for the people that are
16 being affected? Not the developer --

17 CHAIRWOMAN MORENO: No, because I think -- I
18 think the fact that people have to have three public
19 hearings is a tremendous disincentive, to begin
20 with. So the only reason they're going to come here
21 is because their project needs it. If they can build
22 it within the parameters, they're not going to come.

23 MR. KORGE: The last two projects -- the
24 only two projects in recent memory that have done
25 that are materially better projects than they would

1 have been had they been built to right.

2 MR. PARDO: But the amount of units -- Tom,
3 you know, I don't disagree with what you've just
4 said, and going back to Liz's example, they've
5 reduced the amount of units. What if they would have
6 said, "You know what? We want to maximize the amount
7 of units"?

8 CHAIRWOMAN MORENO: Then we could have said
9 no.

10 MR. PARDO: But, you know --

11 CHAIRWOMAN MORENO: One of the reasons we
12 approved that project was because they were reducing
13 the amount.

14 MR. PARDO: Why increase the FAR? What
15 tangible benefit --

16 MR. STEFFENS: That only relates to
17 commercial properties. It doesn't relate to the
18 residential properties.

19 MR. PARDO: Again, why increase the FAR?

20 MR. STEFFENS: Because nobody is taking
21 advantage of it and --

22 MR. KORGE: Because it acts as a
23 disincentive.

24 MR. PARDO: Oh, so you --

25 MR. KORGE: If you have -- if your FAR is

1 allowed at 3.0, by right, but to get a PAD approved,
2 you can only go to 2.5, it's going to take a heck of
3 a lot more than a good plan to get you to go to PAD.
4 It just doesn't make economic sense to do it.

5 CHAIRWOMAN MORENO: Right.

6 MR. PARDO: Well, if you move the envelopes
7 and you leave your FAR where it is, you could
8 conceivably build a much more profitable building,
9 too.

10 MR. KORGE: All I know is, if I owned the
11 land and I had a choice between building to right at
12 3.0, or a PAD at 2.5, I'm very -- you know, I'm
13 building it for profit --

14 MR. PARDO: Okay.

15 MR. KORGE: -- it's not where I'm going to
16 live -- I'm much more likely to go, as of right, to
17 3.0 unless there's something that makes it virtually
18 impossible. I don't see any --

19 MR. PARDO: Okay, let me --

20 MR. KORGE: -- negative to this when we've
21 got in place a system that protects the public by
22 public hearings, it goes to a board that's appointed
23 and independent, and then it goes to the Commission
24 again.

25 MR. PARDO: Okay, here's the problem. Let's

1 say, look at the incentives that have been created in
2 the past. We created an incentive to actually reduce
3 the amount of parking for Mediterranean -- based on
4 the Mediterranean Ordinance, for Mediterranean
5 design. Eventually, that was taken out of the Code,
6 because it was a huge mistake. Created an incentive
7 for TDRs to increase on top of Mediterranean -- on
8 top of Mediterranean bonuses, again, all to be able
9 to promote these things, and then now that's become a
10 hot potato, the TDR on top of the Mediterranean.

11 When you create incentives, you won't --

12 MR. KORGE: It's not an incentive. There's
13 an existing disincentive to use a PAD right now.

14 CHAIRWOMAN MORENO: It's an equalizing
15 provision.

16 MR. KORGE: We're equalizing it. We're
17 taking out of the decision-making process --

18 MR. PARDO: Okay.

19 MR. KORGE: -- the difference in the FAR
20 between a PAD application and an as-of-right
21 construction.

22 MR. STEFFENS: We're not giving them any
23 more than they're entitled to.

24 MR. KORGE: We're not giving them -- This is
25 what they would be entitled to if they built as of

1 right.

2 CHAIRWOMAN MORENO: Okay, I'm going to
3 close the discussion.

4 Anybody in the public that's going speak --

5 MR. SIEMON: Could I just clarify --

6 CHAIRWOMAN MORENO: Yes.

7 MR. SIEMON: -- a couple of things?

8 I mean, in the summary, we haven't recited
9 everything that's in there. The FAR I described
10 applies in the nonresidential components only.

11 There's an explicit provision that says, through the
12 PAD, you cannot increase residential densities.

13 Second, there is a required finding by both
14 this body and the City Commission that whatever
15 deviations are -- from the Code are equivalent to or
16 superior to those minimum standards of the Code.
17 That's an explicit obligation you must find in order
18 to be able to approve the PAD. And so that's why we
19 feel comfortable that this device makes sense. We
20 did add that separate --

21 MR. PARDO: Charlie, just so I understand,
22 you're promoting bigger buildings, right?

23 MR. SIEMON: No.

24 MR. PARDO: Because you just gave them more
25 FAR.

1 MR. SIEMON: No. In the nonresidential
2 districts, they get three right now, if they don't go
3 to the PAD, and what's happened is, they build a
4 three, but they don't take advantage of the
5 opportunities to achieve a better design.

6 MR. PARDO: Wait a minute. I'm sorry, I
7 missed this. If you increased the FAR -- and I just
8 asked you, "You're promoting bigger buildings." You
9 said, "No." What did I miss?

10 MR. SIEMON: We're not increasing the FAR.

11 MR. STEFFENS: They're only using this in
12 areas where that FAR already exists.

13 MR. SIEMON: In the underlying districts,
14 there are districts that permit 3.0.

15 MR. PARDO: Right.

16 MR. SIEMON: We want to create an incentive,
17 or actually, what we want to do is eliminate a
18 disincentive to using the PAD to obtain superior
19 outcomes, but because the existing PAD provision has
20 a cap at 2.5, in order for me, as a property owner --
21 if I own a parcel of land and I have 3.0, in order
22 for me to use the PAD, I have to give up .5 of my FAR
23 that I'm otherwise entitled to, and so I say, "Well
24 forget solving those problems. I'll just build the
25 square box and be done with it." And that's the

1 disincentive we're trying to eliminate.

2 CHAIRWOMAN MORENO: Uh-huh. We got it.

3 MR. SIEMON: Thank you very much.

4 CHAIRWOMAN MORENO: Okay.

5 MR. STEFFENS: I also think that it's better
6 that the changes that the PAD permits within the Code
7 comes to us and not to the Board of Adjustment,
8 because this is the Board that those kind of changes
9 should be determined in, not at the Board of
10 Adjustment.

11 CHAIRWOMAN MORENO: Okay, is there anyone in
12 the public that wants to speak, on this PAD issue
13 only?

14 Okay.

15 MR. KORGE: Can I make a motion?

16 CHAIRWOMAN MORENO: Yes, please.

17 MR. KORGE: I'd like to move to accept the
18 recommendations to increase the PAD FAR from 2.5 to
19 3.0, 3.5 with bonuses if applicable, and decrease the
20 size parcel requirement for PADS to not less than two
21 acres.

22 CHAIRWOMAN MORENO: Do I have a second?

23 MR. STEFFENS: Second.

24 MR. GONZALEZ: Second.

25 CHAIRWOMAN MORENO: Call the roll.

1 MS. MENENDEZ-DURAN: Tony Gonzalez?

2 MR. GONZALEZ: Yes.

3 MS. MENENDEZ-DURAN: Tom Korge?

4 MR. KORGE: Yes.

5 MS. MENENDEZ-DURAN: Felix Pardo?

6 MR. PARDO: No.

7 MS. MENENDEZ-DURAN: Michael Steffens?

8 MR. STEFFENS: Yes.

9 MS. MENENDEZ-DURAN: Cristina Moreno?

10 CHAIRWOMAN MORENO: Yes.

11 Mixed use.

12 MR. SIEMON: The next provision is, we have

13 recommended -- You currently have a concept of three

14 mixed-use districts, that are overlay districts, that

15 can lay down on top of another district and be

16 granted through a rezoning process.

17 We're recommending that for what has been

18 the MXD3, which is a true mixed-use district, that

19 that become a free-standing district and mapped in

20 the areas where it's appropriate, and that you

21 eliminate the fiction that --

22 MR. KORGE: Is that the district we recently

23 approved?

24 MR. SIEMON: You recently --

25 CHAIRWOMAN MORENO: Eric? Yes.

1 MR. SIEMON: -- approved, yes.

2 MR. KERGE: That's what I --

3 MR. SIEMON: And that it be mapped, that
4 that be assigned to the existing industrial area of
5 the City, LeJeune, Bird Road and Ponce and South
6 U.S. 1. That's the first part of our recommendation.

7 The second part is, you also, in those other
8 two mixed district overlays, allow some mixing of
9 uses, to a much smaller extent, and we're suggesting
10 that those should be permitted in the C districts by
11 conditional use. If you want to mix live-work
12 residential into a commercial district, we think
13 approving that through the conditional use process,
14 instead of going through the rezoning, will be a more
15 efficient, and we think an incentive, to promote that
16 kind of mixing, and that's --

17 CHAIRWOMAN MORENO: Who approves the
18 conditional use? Do we do that?

19 MR. SIEMON: The -- They are all major
20 conditional uses that come to this P & Z after -- the
21 mixed use.

22 MR. PARDO: Charlie --

23 MR. SIEMON: Those are our recommendations.

24 MR. PARDO: -- what is the impact on that
25 area?

1 MR. SIEMON: On what area?

2 MR. PARDO: On the area, the area that
3 you're discussing that this thing should be put in as
4 an overlay.

5 MR. SIEMON: Well, right now, you have an
6 industrial district that really isn't applied to --
7 when you really develop down there.

8 MR. PARDO: Right now, we have an area that
9 doesn't have enough parking, that has all sorts of
10 buildings that are going up already in that area,
11 that the parking that they don't have now, those
12 people are bleeding north of Bird Road into a
13 single-family residential area.

14 We have a LeJeune Road and a U.S. 1, which
15 have level F, the worst condition by DOT standards
16 for traffic. What is the additional area -- by
17 creating this incentive of promoting more development
18 and accelerating development in the area, what is --
19 what is the impact, whether positive or negative, to
20 the immediate single-family residential areas to the
21 north --

22 (Thereupon, Mr. Mayville joined the Board.)

23 MR. PARDO: -- the immediate high school to
24 the west, the single-family residential areas to the
25 south --

1 CHAIRWOMAN MORENO: Are you changing
2 anything that's currently in place?

3 MR. PARDO: Sure.

4 MR. KORGE: Yes, that would.

5 MR. SIEMON: We're -- Right now, a portion
6 of it has been approved --

7 MR. KORGE: Right.

8 MR. PARDO: You're doubling the amount.

9 MR. SIEMON: -- as a DRI and as an MXD3.

10 CHAIRWOMAN MORENO: Right.

11 MR. SIEMON: We are taking -- we are
12 suggesting that the balance of the area --

13 MR. KORGE: Extending it to Dixie Highway.

14 CHAIRWOMAN MORENO: To Dixie Highway, the
15 area that we spoke about doing later, under the same
16 concept.

17 MR. SIEMON: Right.

18 CHAIRWOMAN MORENO: So we're going there.

19 MR. PARDO: You're doubling the area without
20 any studies whatsoever as far as the impact on this,
21 and to quote you, you said, "We believe."

22 My question is, where are the hard facts,
23 before this Board simply goes through another vote
24 and says, "Yeah, I think we should do it"? I mean,
25 this is -- this is -- you know --

1 MR. SIEMON: Well, there are two -- then
2 there are two issues. I want to make sure that
3 they're separate.

4 MR. PARDO: Okay.

5 MR. SIEMON: If you're not comfortable with
6 the mapping recommendation that we've made, that's --

7 MR. PARDO: Well, maybe everybody else on
8 this Board is comfortable. I sure am not
9 comfortable.

10 MR. SIEMON: But the decision to create it
11 as an actual district instead of an overlay district
12 is, we think, one that gives more predictability to
13 desired future land uses.

14 Right now, you're in a situation where you
15 have an industrial classification that isn't the real
16 classification. Nobody is using it.

17 MR. PARDO: Charlie, you weren't here last
18 time. Let me bring up a real good point. We had
19 some landowners here from the Valencia corridor.
20 They wanted us to strip the historic TDR factor off
21 and make this area the donor area for residential
22 use.

23 The MDX was brought in so we could mix uses
24 in that area, so it wouldn't just be commercial in
25 this area, in this industrial section, as you call

1 it.

2 Right now, by providing the MDX extension in
3 there, now there will be no additional recipient area
4 for any residential units, whether it's from the
5 North Gables area or from the Valencia corridor or
6 historic buildings or anything else.

7 My question to you is, when you promote and
8 extend this thing, there is an overall impact on
9 traffic, on schools, on concurrency issues, all over
10 the place.

11 MR. RIEL: And as a part of that extension,
12 we do the map change and the land use change. When
13 it goes to the DCA, we have to do that study.

14 MR. KORGE: Right.

15 MR. RIEL: That information, that land use
16 change, that zoning change, has to come through this
17 Board for review, and actually, the DCA, when we went
18 to them with the MXD3, said, "We want you to make
19 this a mixed-use category and basically clean up the
20 area, because we know it's not going to be
21 industrial."

22 MR. PARDO: But, Eric, you know and I know
23 that their directions were so --

24 MR. RIEL: What I'm saying, Mr. Pardo, is,
25 that analysis will be done once the actual district

1 is assigned.

2 MR. PARDO: That analysis is not good
3 enough, and I'll tell you why. All traffic, all
4 traffic, east of the Palmetto Expressway is exempt
5 from traffic concurrency. How can we be so dumb that
6 we could say, "You know what? Because someone said
7 that all traffic to the east is exempt, how can we
8 say, oh, no, traffic won't be affected if we
9 accelerate now everything?"

10 We're not -- we're even talking about that
11 the north half -- the existing -- even I'm calling it
12 now the north half -- that MDX that we experimentally
13 approved has one project on the drawing board right
14 now, and it is not filled to capacity yet, but now
15 we're going to open the floodgates, without us
16 studying, from our own point, and we're saying, "You
17 know what? We're going to save ourselves by simply
18 turning to Tallahassee, and Tallahassee can approve
19 it."

20 Tallahassee's threshold is so -- so low and
21 unrealistic, it's laughable, and what I'm saying is
22 that you just have to go to DOT, District 6, and
23 they'll give you today that the traffic on LeJeune
24 Road and U.S. 1 is at level F, and Bird Road is level
25 D. There's no E.

1 So what I'm saying is, I simply want to
2 know, how many square feet are going to be built in
3 this area once you, all of a sudden, throw this
4 overlay on there? I mean, just because it's the
5 industrial section doesn't mean it's not going to
6 affect every neighborhood where traffic that cannot
7 make it up LeJeune, cannot make it up Ponce --
8 they're going to take every side street in the
9 immediate first three or four radius miles of the
10 thing, cutting everywhere they can.

11 Remember, they can't even go west, because
12 years ago the neighbors there went crazy when certain
13 commercial office buildings were built on LeJeune
14 Road between Ponce and the high school, and a
15 restaurant, a couple restaurants, were opened there,
16 too, and they demanded that those streets were
17 closed, and they were closed, and now traffic cannot
18 filter through there to alleviate the traffic problem
19 on LeJeune, Bird, U.S. 1, Ponce.

20 And I'm just looking at this, and we're
21 looking and saying, "You know, we might as well just
22 extend it, not look at it on a project-by-project
23 basis. We might as well just overlay the whole thing
24 and make it all MDX."

25 And I'm just saying, how can we even

1 consider that, if we don't have the numbers before we
2 do something like that?

3 MR. STEFFENS: Charlie, does changing that
4 area increase the mass of building that's permitted
5 to be built?

6 MR. RIEL: No, it doesn't. It doesn't.
7 Presently it's permitted 99 feet. The regulations
8 allow for one additional foot.

9 MR. STEFFENS: So we're not increasing what
10 could be built in that area?

11 MR. RIEL: No, it's a hundred foot of
12 habitable structure and 25 feet for architectural
13 elements. It's the same.

14 CHAIRWOMAN MORENO: What we're doing --

15 MR. STEFFENS: What this is requiring is
16 that what's built in those areas be mixed use.

17 MR. RIEL: Mixed use. It's voluntary, if
18 you desire to develop under those regulations, and
19 remember, we went through the whole discussion of
20 public realm improvements, undergrounding of
21 utilities and all those other benefits, in terms of
22 the public benefit that is received.

23 MR. KORGE: So we would extend all --

24 CHAIRWOMAN MORENO: But if we make it a
25 mixed-use district, could you build a non-mixed-use

1 project?

2 MR. RIEL: Yes.

3 MR. SIEMON: Yes.

4 CHAIRWOMAN MORENO: Yes.

5 MR. KORGE: We extend all of the --

6 MR. SIEMON: In the uses that are permitted
7 in that district.

8 MR. PARDO: If you look at TDRs in the
9 future, Charlie, where's the recipient area? Where's
10 the recipient? Isn't this a logical recipient area?

11 MR. RIEL: That's going to be a part of the
12 study that we suggested when we discussed the TDR
13 issue.

14 MR. PARDO: But once you approve this, you
15 have -- you know, now it becomes a matter of right
16 for those people. We made a mistake with the north
17 half by simply not utilizing it as a recipient area
18 for residential areas.

19 MR. RIEL: In my opinion --

20 MR. PARDO: We could have been able
21 to alleviate --

22 MR. STEFFENS: Felix, this doesn't affect
23 that area becoming a possible recipient area.

24 MR. RIEL: In my opinion --

25 MR. STEFFENS: Making this a possible

1 recipient area --

2 MR. RIEL: -- this does not throw this area
3 out of having this as an available TDR site. That
4 will be --

5 MR. STEFFENS: We're not increasing
6 eligibility to build in there.

7 MR. PARDO: No -- yes, you are, because --

8 MR. STEFFENS: No, we're not.

9 MR. KORGE: I've got to ask a question.

10 MR. STEFFENS: He just said we're not
11 increasing the mass of building that can be built in
12 that area.

13 MR. PARDO: No, because what -- Michael,
14 what he's saying is, it could still be a recipient
15 area, but now you're talking about the same as the
16 TDRs in the CBD, you could have the Mediterranean
17 bonus with the TDR mounted on top of it, and then
18 you're talking beyond the FARs, beyond the units.
19 I'm saying --

20 MR. STEFFENS: They can do that? Can they
21 do that now without this MXD? Can they get
22 Mediterranean bonuses in that neighborhood without
23 the MXD?

24 MR. RIEL: Yes. Yes.

25 MR. PARDO: Yes, but --

1 MR. RIEL: Absolutely.

2 MR. PARDO: But the point is that the
3 Mediterranean bonus and the TDRs are two different
4 things. Remember, it's a glass -- it's a glass that
5 once you take that lid off --

6 MR. STEFFENS: Right. So how does this area
7 become a recipient area without the MXD?

8 MR. PARDO: Okay, Michael, the incentive is
9 very simple. Right now, the reason this area does
10 not get built out is because the market can't take
11 any more office buildings, the market can't take any
12 more retail in that area, but what the market can
13 take is residential units.

14 MR. STEFFENS: There's some big retail
15 projects looking in that neighborhood.

16 MR. PARDO: Well, what I'm saying is -- what
17 I'm saying is, if you look at the possibility of
18 alleviating other problems, whether it's historic
19 buildings or the transfer of development rights, take
20 those transfer of development rights and allow --
21 This is the last little sliver of land that we have
22 in the City, unless you want to put in it middle of
23 single-family residential areas, to be a recipient
24 area of those residential units, to allow them to
25 become mixed use. The incentive is there. Why?

1 Because what are the most amount of projects that we
2 see coming before us? Residential multi-story uses.

3 The only reason, the only reason, that you
4 would want this incentive there is then to be able to
5 alleviate the problems that we have --

6 MR. KORGE: Excuse me for interrupting. Are
7 you suggesting, then, that assuming we approve TDRs,
8 which is unlikely at this time, but assuming we did,
9 that mixed use would be permitted in the industrial
10 area only if TDRs --

11 MR. PARDO: By the units.

12 MR. KORGE: Only if TDRs are used there?

13 MR. PARDO: Yeah, and --

14 MR. KORGE: And how would you decide how
15 many TDRs must be acquired?

16 MR. PARDO: Well, here's the thing. Here's
17 the thing. You could leave your threshold, as far as
18 FAR, et cetera. Now, take a look at the amount
19 units. For example, if you have a parcel of land,
20 right now TDRs are limited to historic, but if you
21 have these buffer zones that Mr. Gibbs brought up,
22 the last time we were here, and if you say, you know,
23 in this area, through a simple mechanism of those
24 TDRs, whether you're saving historic buildings or
25 whether you're trying to realign some of the density

1 problems through these buffer areas, the recipient
2 area can become this area only for residential. You
3 would not be going beyond the FAR.

4 The problem I have with the MDX was that it
5 was a vehicle that was developed to be able to go
6 into the industrial section, where residential was
7 prohibited? Do you follow? It was prohibited. And
8 the problem -- the problem exists, is that if you go
9 ahead and extend the MDX, which has not been built
10 out yet, and you don't --

11 MR. KORGE: I understand. I understand the
12 problems.

13 Let me ask you, Charlie --

14 MR. SIEMON: Yes.

15 MR. KORGE: -- is that something that is
16 typically done, where you allow a different use in an
17 area in return for acquiring TDRs, which presumably
18 would be optional? In other words, it wouldn't be
19 sort of a mandatory purchase, but it would be an
20 optional purchase, to provide an additional incentive
21 to purchase TDRs?

22 MR. SIEMON: Typically, the receiving area
23 would be designated in advance, in an appropriate
24 zoning classification that would say it's eligible
25 for a transfer.

1 MR. KORGE: Right.

2 MR. SIEMON: And --

3 MR. KORGE: But would you say it's eligible
4 for transfer and eligible for a different usage if
5 you acquire a certain number of TDRs per acre or
6 however you measure it?

7 MR. STEFFENS: You're not necessarily
8 transferring development rights. You're transferring
9 a use right.

10 MR. PARDO: No. No, you're actually --

11 MR. KORGE: You're going to have a different
12 use if --

13 MR. STEFFENS: You're not going to be able
14 to build any more.

15 MR. KORGE: That's what Felix is addressing.

16 MR. PARDO: Exactly, but you're able --
17 you're able to transfer -- you're actually able to
18 transfer residential uses in the form of density, and
19 you could limit it -- You don't have to limit to it
20 square footage.

21 MR. STEFFENS: But they're not changing the
22 density.

23 MR. PARDO: Look --

24 MR. STEFFENS: Are you going to change the
25 density in that neighborhood --

1 MR. PARDO: No.

2 MR. STEFFENS: -- to allow more density, to
3 accommodate the --

4 MR. PARDO: No. Right now, there is zero
5 density.

6 MR. STEFFENS: No, there's not zero density.

7 MR. PARDO: No, in any --

8 MR. STEFFENS: There's density in that area.

9 MR. PARDO: No, wait a minute. Wait a
10 minute.

11 MR. STEFFENS: You can build a certain
12 volume of commercial --

13 MR. PARDO: No --

14 MR. STEFFENS: -- in that area.

15 MR. PARDO: Commercial is FAR. It's not
16 density. It's square footage. Density is
17 residential. Let's keep --

18 MR. STEFFENS: Let's say volume --

19 MR. PARDO: Okay.

20 MR. STEFFENS: -- so it's the same -- we're
21 talking apples to apples.

22 MR. PARDO: Exactly. We would be able to
23 say, "You keep the volume of the box, but in order
24 for you to now take that box -- " Through market
25 conditions, you're not going to build -- you may

1 disagree or agree. But now you're able to relieve
2 some of the pressure -- Remember, just the other day,
3 we were talking about, "Oh, let's move the TDR
4 recipient area into the North Gables area," which is
5 the part that is being crushed right now.

6 MR. STEFFENS: Nobody talked about that
7 here.

8 MR. KORGE: Charlie --

9 MR. PARDO: Oh, sure it was.

10 MR. KORGE: -- is that something that --

11 MR. STEFFENS: Maybe out there, but not
12 over here.

13 MR. PARDO: No --

14 MR. KORGE: -- has been done or could be
15 done, or is that --

16 MR. PARDO: Cristina said that.

17 (Simultaneous inaudible comments)

18 MR. SIEMON: I'm unaware of any programs
19 that say that if you take X amount of development,
20 some quantitative measure of development, and
21 transfer it to another site and not use it, but
22 having done so, you are eligible for a different use.
23 I'm just not aware of any programs that do that.

24 I don't know what the nexus between the
25 density and allowing a use that's not otherwise

1 allowed would be.

2 MR. STEFFENS: I also --

3 CHAIRWOMAN MORENO: Your recommendation,
4 just so I understand it, is to allow mixed use in
5 this area, as of right?

6 MR. SIEMON: Our first -- our first
7 recommendation is that instead of an overlay

8 district, where you have MXD, it ought to be mapped
9 as the primary district.

10 CHAIRWOMAN MORENO: Okay.

11 MR. KORGE: Okay, explain that to us. Why
12 do you recommend that?

13 MR. SIEMON: We think overlay districts will
14 lead to a lot of confusion, because you do have
15 overlay districts and unintended consequences. We
16 think if you're going to promote and desire mixed
17 use, you ought to identify the areas that are
18 appropriate for it, you ought to establish what the
19 parameters ought to be, and then you ought to make it
20 available to the development community to do that.
21 If you -- And because there are different kinds,
22 we've said some of them ought to be conditional uses,
23 that is, where you add residential to a commercial
24 district involving a certain number of units, we
25 think that's a mixed use that could be approved as a

1 conditional use.

2 You always had an overlay district, which
3 someone can come in and ask to be located on a parcel
4 of land, and we've suggested that, given the pattern
5 of development, given that you've got an industrial
6 district out there that doesn't relate to reality,
7 it's not really being used that way and no one really
8 expects it to be used that way, that you would do
9 better to identify what you want that area to be --

10 MR. KORGE: Well, before we get to the --
11 and I'm sorry for interrupting. Before we get to the
12 industrial, let's deal with the existing MDX 3
13 district at Bird Road. Now, if we adopt --

14 CHAIRWOMAN MORENO: The underlying zoning
15 there is industrial --

16 MR. SIEMON: Industrial.

17 CHAIRWOMAN MORENO: -- just like he said.

18 MR. KORGE: Oh, I'm sorry, I thought you
19 were talking about the other industrial area. So, if
20 we adopt this, the industrial classification goes
21 away?

22 MR. SIEMON: Right.

23 MR. KORGE: Now, will that adversely affect
24 anybody now?

25 MR. PARDO: Gables Engineering.

1 MR. SIEMONS: No.

2 MR. STEFFENS: It would just be a legal
3 nonconforming use.

4 MR. SIEMON: They will be --

5 MR. PARDO: It would be a legal
6 nonconforming use.

7 MR. SIEMON: -- in operations as they are
8 now.

9 MR. RIEL: Just for the record, we've been
10 working with the property owners and had a number of
11 preliminary meetings with, I would probably say,
12 about 80 percent of the property owners down there --

13 MR. STEFFENS: Maybe some paint and body
14 shops.

15 MR. RIEL: -- and they, you know, were
16 coming up, and actually they have asked to be
17 assigned this, and we're working through different
18 design scenarios and different issues, so --

19 MR. PARDO: Eric, why --

20 CHAIRWOMAN MORENO: I see Ms. Dougherty
21 here. I think she wants to speak on this issue.

22 MR. PARDO: Eric, why --

23 CHAIRWOMAN MORENO: Could I ask her to come
24 up?

25 MR. STEFFENS: I have a question.

1 CHAIRWOMAN MORENO: Wait. We're going to
2 let Ms. Dougherty speak.

3 MS. DOUGHERTY: Good evening, Madam Chair,
4 Members of the Board. Lucia Dougherty, with offices
5 at 1221 Brickell Avenue. I'm here today on behalf of
6 some property owners and some folks who are trying to
7 buy in this southern district, industrial district,
8 and as you know, your Comprehensive Plan already
9 tells us that by the year 2000, this entire district
10 ought to be a mixed-use district. That's already
11 existing in your Comprehensive Plan.

12 When we did the overlay on the northern
13 district, we did exactly the studies that you had
14 proposed, and the studies are, essentially, if you
15 took the existing uses that are permitted, in the
16 same volume that's permitted, and remember, it's
17 exactly the same volume -- we're not getting any more
18 FAR or any more height -- and you change that to
19 residential uses, which one has the biggest traffic
20 impact? And by far, by five or ten times, a retail
21 commercial development has more traffic impact than a
22 residential one.

23 MR. PARDO: Which one has the greatest
24 school impact?

25 MS. DOUGHERTY: Residential, no question. I

1 mean, obviously, the retail doesn't have any school
2 impact.

3 MR. PARDO: Coral Gables High is 176 percent
4 capacity, or it was 225, I can't recall.

5 CHAIRWOMAN MORENO: Yeah, but none of that
6 is Coral Gables students, so let's speak of Coral
7 Gables students.

8 MR. PARDO: No, but they still --

9 CHAIRWOMAN MORENO: Please keep going.

10 MR. PARDO: They still have to go there.

11 MS. DOUGHERTY: But then, what is the
12 best -- what's the least amount of impact to the
13 residential across the street? We believe a
14 mixed-use residential would have a lesser impact to
15 the residents, the single-family residents across the
16 street, than having a commercial use, and remember,
17 your -- what's it called, The Collection, your
18 Merrick Park, is in the industrial district. You
19 could very easily have another -- maybe not office
20 building, but you could very easily have more
21 commercial in that area, and if you don't allow for
22 mixed use, that's what you're going to get there.
23 This is very valuable land. People are going to buy
24 it, and don't think that commercial development isn't
25 something that's readily financible and usable now.

1 It is. We have big box retailing going all over
2 Miami currently. So this is something is that
3 clearly could happen here. We think that residential
4 is -- a mixed-use development is a much lesser impact
5 to the residents who are across the -- in our nearby
6 vicinity, and we also believe that this is something
7 that you are mandated by your own Comprehensive Plan
8 to do.

9 MR. PARDO: Lucia --

10 CHAIRWOMAN MORENO: So you support what is
11 being recommended?

12 MS. DOUGHERTY: Yes.

13 MR. PARDO: Lucia, let me ask you something.
14 Is there -- you know, do we have more parks, by any
15 chance, in the City of Coral Gables? You know, when
16 we give you the green light to build that entire area
17 as residential, this so-called mixed use, where do
18 the kids go to play, the Youth Center? They don't
19 have more land area. I mean, they simply don't have
20 more land area. There's no more parks in this area.
21 That's part of the concurrency issue that we tend to
22 ignore, because the State says it's okay, and they
23 wouldn't know the difference between what the
24 threshold is or not. And it's the same thing as
25 being exempt from traffic, to say that -- right now,

1 the only reason that area hasn't been built out
2 overnight is because there is no demand for it.

3 The reason that you're losing all the small
4 buildings in the North Gables area is because right
5 now that is the hottest ticket and will be the
6 hottest ticket, because simply our location is the
7 best in Dade County.

8 My question to you is, what about the level
9 of service? The level of service here, if we ignore
10 it, we may meet the minimum thresholds from the
11 State, but it would be shortsighted of us --

12 MS. DOUGHERTY: Well --

13 MR. PARDO: -- not to say that there's not
14 going to be a negative impact.

15 MS. DOUGHERTY: Well, level of service and
16 traffic is one thing, and I think I discussed that.
17 The level of service, you're absolutely right. You
18 have more impact for the children, either for your
19 parks or for the schools.

20 Now, it's interesting, because I have a
21 friend who's in the restaurant brokerage business,
22 so I asked her -- and she has a program that talks
23 about what kinds of demographics there are in a
24 particular area. So just out of curiosity, I said,
25 "Would you run Coconut Grove and would you run

1 Brickell Avenue," and Brickell Avenue was
2 particularly important to me, because Brickell Avenue
3 pays a lot of impact fees, school impact fees, and
4 the schools want even more money. They want an
5 another \$3,000 per student that they believe are
6 impacted.

7 In doing those demographics, which she gets
8 from the Census, the interesting thing is that
9 Coconut Grove had 50 percent households with no
10 children. That's including all of them, including
11 residential, apartments, et cetera. Brickell Avenue
12 has over 50 percent, over 50 percent without children
13 in them.

14 So the School Board has all these --
15 these -- what do you call it -- statistics that they
16 use to determine how much impact that your multi-
17 family residential structures have on their schools,
18 but they're inaccurate. They're much more inflated
19 than whatever could possibly be. So I have an
20 experience. I live, you know, in Claughton Island.
21 There are very few children who live there,
22 particularly on a huge island with a lot of
23 multi-family buildings.

24 So, yes, while there is an impact, it's much
25 less, I believe, than you may think, number one, but

1 number two, that's why you have impact fees that you
2 can impose.

3 MR. PARDO: Well, we've already discussed
4 directly with the School Board how ineffective our --
5 our --

6 MS. DOUGHERTY: Yes, because they don't
7 spend it here, right?

8 MR. PARDO: Of course not, and they told
9 us --

10 MS. DOUGHERTY: It's not like we don't have
11 it.

12 MR. PARDO: Our district goes from Homestead
13 all the way to Aventura, from Miami Beach all the way
14 to the Palmetto Expressway, which is --

15 MS. DOUGHERTY: It's the same area that
16 Brickell Avenue has, exactly.

17 MR. PARDO: Do you have any problem with
18 TDRs and being able to alleviate other zoning
19 issues --

20 MS. DOUGHERTY: Of course not.

21 MR. PARDO: -- and use this as a recipient
22 area?

23 MS. DOUGHERTY: Of course not. But what I'm
24 saying to you is that it's like Mr. Steffens says,
25 the volume is already there. So you're not giving

1 anything. We already have the FAR, the same height,
2 et cetera. So what are you going to allow us to do
3 by TDRs?

4 MR. PARDO: It's residential use.

5 MS. DOUGHERTY: Residential use.

6 MR. PARDO: We would be giving you a
7 residential use. But what it does --

8 MS. DOUGHERTY: Well, maybe you should do
9 this. Maybe you should say -- okay, is there a
10 maximum number of residential units currently, 300
11 per --

12 MR. RIEL: 125 units, I think.

13 MS. DOUGHERTY: 325?

14 MR. RIEL: 125.

15 MS. DOUGHERTY: 125 units per acre. Maybe
16 you say it should be 100 units per acre, and allow
17 the other 25 units per acre to be as a TDR.

18 MR. PARDO: The --

19 MS. DOUGHERTY: I don't think you should
20 take away all their rights, is what I'm saying.

21 MR. KERGE: But you indicated that under our
22 Comprehensive Land Use Plan, this is designated area
23 for residential, or mixed use.

24 MS. DOUGHERTY: Mixed use.

25 MR. KERGE: That's correct, Eric, right?

1 MR. RIEL: Yes, absolutely.

2 MR. KORGE: So we're conforming to what our
3 plan has been.

4 MS. DOUGHERTY: Correct.

5 MR. KORGE: Why is that a problem? I mean,
6 I don't see that as a problem.

7 MS. DOUGHERTY: I don't think it's a
8 problem.

9 CHAIRWOMAN MORENO: She's supporting it.

10 MR. KORGE: I know. I'm just -- It's a
11 rhetorical question.

12 MR. PARDO: Tom --

13 CHAIRWOMAN MORENO: Okay, I'm sorry --

14 MS. DOUGHERTY: I'm just wondering, to
15 follow your line of thought --

16 MR. PARDO: Tom --

17 MS. DOUGHERTY: -- if you wanted to have a
18 recipient area, why not say, instead of 125, be
19 allowed to have a hundred as of right and the other
20 25 that can be bought. And I'm saying this without
21 even looking at my clients, who are probably going --

22 MR. PARDO: You see, accelerating -- Let me
23 tell you something. Accelerating --

24 MS. DOUGHERTY: Stabbing me in the back,
25 right?

1 MR. PARDO: I didn't realize that the goal
2 of the City of Coral Gables was to accelerate
3 development and to go and make sure that we meet the
4 maximum of the CLUP. I mean, I can't believe --

5 MS. DOUGHERTY: I don't think that's the
6 point.

7 MR. PARDO: Well, it is the point,
8 because if now --

9 MR. KORGE: It's not changing the amount of
10 development under the CLUP. It's conforming it to
11 the usage.

12 MR. PARDO: No, you're accelerating
13 development. If you provide tomorrow a tax incentive
14 for someone to go out and buy a boat, and it becomes
15 so incredible that you want to provide this
16 incentive, you actually make people go out and buy a
17 boat.

18 CHAIRWOMAN MORENO: Okay, can we --

19 MR. PARDO: In this particular --

20 CHAIRWOMAN MORENO: Can we hold back on more
21 discussion?

22 MR. PARDO: I would like -- but I --

23 CHAIRWOMAN MORENO: Okay, no, we've got to
24 finish, or we're never going to get out of here.

25 Are you finished, Ms. Dougherty?

1 MR. STEFFENS: I have a question for Ms.
2 Dougherty, in relation to these transfer of
3 development rights.

4 Do you think your clients want to pay twice
5 for the right to build residential?

6 MS. DOUGHERTY: Of course not.

7 MR. PARDO: So --

8 CHAIRWOMAN MORENO: Okay.

9 MS. DOUGHERTY: I mean, I'm just --

10 MR. PARDO: So there's no give and take,
11 there's only take? No, I mean, right now -- Mr.
12 Steffens --

13 MS. DOUGHERTY: You just asked me a
14 question, do they want to pay if they could have it,
15 right? No.

16 MR. PARDO: No, but look, out of the --
17 Lucia, you know, we've both been around the block a
18 couple times, and I respect you very much in what
19 you're saying.

20 MS. DOUGHERTY: You're just saying that
21 because I'm old, right?

22 MR. PARDO: No, no, no, no, but the point is
23 that -- you know, and I respect your opinion a lot,
24 and the point, though, is that what I guess I see
25 very clearly is that we are accelerating development

1 in this area for the owner and people that are
2 speculating, for free, at the cost of the City.

3 But if we're able to alleviate an existing
4 problem that exists in other areas, this is the only
5 last recipient area to try to fix some of the other
6 problems that exist. Once we paint ourselves into
7 the corner, we're done, and that's what I'm upset
8 about, because once we give you the rest of the --
9 the -- the MXD, you don't have to pay any more. You
10 only have to --

11 CHAIRWOMAN MORENO: No, Felix, but what they
12 said to us is, you can't do what you're saying. What
13 you're saying is --

14 MR. PARDO: No, you can. He says that he
15 hasn't seen it done.

16 CHAIRWOMAN MORENO: Okay, but what you're
17 saying is, take a residential use and buy a
18 residential use right in an industrial area. That
19 hasn't been done --

20 MR. STEFFENS: Give away development rights
21 and buy a use right.

22 CHAIRWOMAN MORENO: Yeah, which is not how
23 transfer of development rights have been used,
24 assuming we want to approve them, which I'm pretty
25 opposed to, but anyway, assuming that's right, what

1 you're saying is, instead of adding units, which is
2 typically how it's been used, you're saying change a
3 use, and I think that's a terrible precedent. To
4 change -- to create a zoning change by buying a
5 development right?

6 MR. PARDO: No, no, no, no --

7 CHAIRWOMAN MORENO: That's what you're
8 saying --

9 MR. PARDO: No, no, no, no.

10 CHAIRWOMAN MORENO: It's a zoning change.

11 MR. PARDO: No, let me explain it again.

12 CHAIRWOMAN MORENO: I understood it.

13 MR. PARDO: No, well, let me explain it
14 again, anyway.

15 CHAIRWOMAN MORENO: Okay.

16 MR. PARDO: Let's say that we're in the
17 North Gables area, and we have a particular block.
18 Let's say on this block in the North Gables area,
19 there are 20 buildings on this block that are little
20 two-story apartment buildings that are very eligible,
21 from historic standpoint, as potential historically
22 designated buildings.

23 Now, let's say that if these buildings,
24 these individuals, instead of the 20 units that exist
25 there, they would be able to build 40. The incentive

1 is then to take those 20 that they didn't develop,
2 don't tear down those buildings, and then make them
3 available to Ms. Dougherty's client, to be able then
4 to take that FAR and then -- and then transfer those
5 into units in that building, within the FAR.

6 Now, please --

7 CHAIRWOMAN MORENO: But it's an industrial
8 area.

9 MR. STEFFENS: Yeah, you're not --

10 CHAIRWOMAN MORENO: So you're allowing an
11 industrial-zoned area to purchase a residential use.

12 MR. STEFFENS: And you're not giving them
13 any more FAR. You're not giving them that FAR.

14 MR. PARDO: It would be an overlay district
15 to be able to be the recipient area. What happens
16 is, that block in the North Gables --

17 CHAIRWOMAN MORENO: I understand the
18 benefit.

19 MR. PARDO: -- would have been able to --

20 CHAIRWOMAN MORENO: I understand the
21 benefit, but I think the precedent that you're
22 setting of buying a use right is one that is very
23 dangerous.

24 MR. PARDO: Well, you see, let's describe
25 the danger.

1 CHAIRWOMAN MORENO: The danger is that --

2 MR. PARDO: The danger right now that we
3 have is that that block, with those ten buildings in
4 the North Gables area -- just drive up to North
5 Gables and see what's going on.

6 CHAIRWOMAN MORENO: I'm very aware of North
7 Gables.

8 MR. PARDO: And the problem is that this is
9 such a simple solution, and we squandered the first
10 half of the industrial section by not developing an
11 overlay like that, for it to be a residential
12 recipient area.

13 CHAIRWOMAN MORENO: Okay. We understand
14 your point.

15 MR. PARDO: We squandered it.

16 CHAIRWOMAN MORENO: Is there anybody else on
17 this topic?

18 MR. STEFFENS: Yes. I'd like to describe a
19 problem, because I see another problem on the other
20 side. Right now, they're allowed to build retail and
21 commercial that area. If we start charging them
22 twice to build residential, which is what we want to
23 encourage in that area, we want to encourage
24 residential in that area -- if we start charging them
25 twice, because they're going to buy the land, and the

1 land, you can build the same amount of square footage
2 on, whether it's commercial or it's residential. If
3 we charge them twice, the units that are being built
4 in that area are not high-end units. They're
5 mid-level units. They're not going to be paying
6 substantial amounts for the land or the rights to
7 build these units. I know there's people looking in
8 that area now who have developed very big box
9 projects --

10 CHAIRWOMAN MORENO: Uh-huh.

11 MR. STEFFENS: -- on Federal Highway, very
12 close to Dadeland Mall, who are looking to replicate
13 those projects in that same neighborhood. We'll just
14 get retail and offices in that area.

15 MR. PARDO: But why do you say twice,
16 Michael? You've already put a price on it.

17 MR. STEFFENS: Well, there's a price on the
18 land. The land has a price now.

19 MR. PARDO: Exactly.

20 MR. STEFFENS: It's X number of dollars per
21 square foot. They can build 300,000 square feet on
22 that land, whether it's retail or it's residential.
23 Now you're going to make them go out and buy TDRs --

24 MR. PARDO: No, here's the --

25 CHAIRWOMAN MORENO: Okay --

1 MR. STEFFENS: -- to take advantage of that
2 square footage of residential that they already paid
3 for.

4 MR. PARDO: Right now, they're paying the
5 School Board above and beyond the impact fee, and
6 they're doing it gladly, because as long as the math
7 works, they're able to do it. The problem that we
8 have here --

9 CHAIRWOMAN MORENO: Okay, wait --

10 MR. PARDO: -- goes back to just
11 giving them --

12 CHAIRWOMAN MORENO: Let's finish the
13 discussion after everybody speaks.

14 MS. DOUGHERTY: I think that what Michael is
15 saying is correct. It's all a matter of the
16 economics of the site. So, if you're making them
17 pay -- and who knows what those 40 units are going to
18 cost. If you make them pay, it may be unaffordable
19 to have residential units, and you do it as the
20 retail. And I just want to point out to you, you
21 can't put a recipient unit in this industrial
22 district unless you rezone it. That's another thing.

23 CHAIRWOMAN MORENO: Thank you. I understood
24 that. Thank you.

25 Is there anybody else on this topic?

1 Mr. Siemon?

2 MR. SIEMON: Our first recommendation is
3 that you make the mixed district a district, and not
4 an overlay district, and that it would be applied to
5 areas which are appropriate for mixed use.

6 The second, Staff has recommended that the
7 south side, I guess we call it, should be mapped,
8 with that district, once it's been adopted. I
9 would --

10 MR. KORGE: Can I ask you a question about
11 that? One more question, I'm sorry.

12 MR. SIEMON: All right.

13 MR. KORGE: The existing requirements under
14 the current MXD3, those would apply, as well, in the
15 area --

16 MR. SIEMON: Yes.

17 MR. KORGE: -- the industrial area near
18 Dixie Highway, so it would be the exact same
19 criteria?

20 MR. SIEMON: Yes.

21 MR. KORGE: Okay. Thank you.

22 MR. SIEMON: And I just would like to
23 observe something about the school concurrency.
24 George de Guardiola, who's here, and I have a unique
25 history. I've been involved in Mizner Park since it

1 was created, and he created Abacoa, and we always
2 share data back and forth.

3 We have 272 mixed-use residential units in
4 our project, and this week we have seven school-age
5 children. George has 412 units in his mixed-use town
6 center project, and he has 25. And it's because the
7 people who choose to live in those kinds of places
8 make -- they're called lifestyle centers for a
9 reason. They are people who make a lifestyle choice.
10 So I just want to -- because I happen to have that
11 information, and I think that mixed use is a
12 different kind of residential than just residential,
13 just as the commercial is a different kind of
14 commercial.

15 My experience is, the best retail commercial
16 in the world is in a mixed-use project with
17 residential, because it's got to be or you're going
18 to fail. You can't sell homes or rent homes to
19 people if it's not a nice neighborhood, so you
20 create a great retail neighborhood.

21 So much for my little lecture.

22 CHAIRWOMAN MORENO: Thank you.

23 MR. SIEMON: My apologies.

24 MR. MAYVILLE: I came in a little late, but
25 I just -- Are you looking to make these changes as

1 part of the rewrite, or are you going to hold
2 separate public hearings on this to -- and then
3 incorporate it?

4 MR. SIEMON: Board Member, we are going to
5 eventually have to prepare a proposed zoning map,
6 because we're going to change districts' labels, and
7 when we do that, there are about 70 circumstances
8 that Staff or we have identified where there's an
9 existing problem or inconsistency or something that
10 doesn't make sense.

11 We're going to have to go through and make
12 policy decisions about whether those uses should be
13 put in a different -- that land ought to be put in a
14 different district, and I think this recommendation
15 says, when you're going through that mapping
16 exercise, you should consider mapping the south part
17 of that area as MXD, and that's when it would
18 actually be addressed.

19 The recommendation to create the MXD as a
20 free-standing -- as a district would be in the text
21 that we'd produce. The decision to put it on the map
22 would really be in conjunction with when we bring
23 that map, and what you're going to see is a map like
24 the one that you all have seen. We don't see great
25 changes coming in the districts. And then there are

1 going to be a series of properties flagged where
2 there are questions, and we're going to make a
3 recommendation to you. One of them will be that this
4 become MXD3 -- MXD, instead of industrial. There are
5 also going to be some others that we've -- that have
6 come up, just as we've been working through the
7 process.

8 MR. KORGE: I'm confused. If we approve
9 this recommendation to extend the -- you know, make
10 it all MX and extend it to the highway, is -- after
11 we've done that, it's going to go into the Code that
12 way, right?

13 MR. SIEMON: What's really happening here,
14 we have a working draft of a code, and a conceptual
15 draft of the map. We're working through to resolve
16 some policy issues, and the end of that policy issue
17 is going to be a proposed draft.

18 It will then go through the kind of formal
19 public hearing to be adopted. Every one of these
20 decisions you're making policy choices about today is
21 directed towards producing a proposed draft, which
22 will then go for consideration. The same would be
23 true for the map.

24 MR. KORGE: So is that going to --

25 CHAIRWOMAN MORENO: So it will be heard

1 again?

2 MR. SIEMON: Yes, that's correct.

3 MR. KORGE: It will come through us again?

4 MR. SIEMON: Yes, in its complete form, all
5 together.

6 CHAIRWOMAN MORENO: But the purpose of this
7 is so that what comes before us is likely to be
8 approved by us.

9 MR. SIEMON: Right, is what you -- what
10 reflects your recommendations and policies.

11 MR. MAYVILLE: This is where -- I have a
12 problem with this, because it's like we're skipping
13 what we went through in the north end. We're just
14 using this rewrite as a way to sort of shuffle this
15 through --

16 MR. PARDO: No, no. It's a blanket zoning
17 change, is what it is.

18 MR. MAYVILLE: Yeah, without hearings --

19 CHAIRWOMAN MORENO: To conform to our
20 Comprehensive Land Use Plan.

21 MR. MAYVILLE: -- without specific
22 information to be -- you know, specific residents in
23 that area to be notified of this thing, because it's
24 all going to come in one shot, nobody is going to be
25 able to digest it. I really have a problem with

1 that, and I've got to believe some Commissioners are
2 going to have problems with it, too.

3 MR. STEFFENS: There's two different things
4 happening here at the same time, simultaneously, but
5 they don't necessarily need to happen together, and
6 they aren't going to actually happen together.

7 The first is the language describing MX
8 districts. Instead of having, in our Code,
9 commercial or residential, we're also going to add MX
10 as a district. We're going to say, "This is a
11 district."

12 Completely separate from that, we're going
13 to then take that district and stick it somewhere on
14 our zoning map. We're going to say, "Okay, this is
15 an MX district. It's not an overlay, it's just an MX
16 district."

17 That's going to happen completely separate
18 of putting that description of an MX district in the
19 Code. Just because it goes into the Code doesn't
20 mean it appears somewhere on the map.

21 MR. PARDO: I'm --

22 MR. MAYVILLE: I think it's a sly way -- I
23 mean --

24 MR. PARDO: No, no, it's not sly. This is
25 out in the open. This is a public hearing.

1 What is happening, which I think is
2 absolutely remarkable, we started talking about that
3 the Zoning Code was archaic, and now we've gotten to
4 the point that we're rezoning entire districts, with
5 ramifications that we have no clue what they are, but
6 we are providing tremendous fuel to development,
7 without knowing what the final ramifications are.

8 For me, that is the most incredible thing,
9 and it's all in the wide open and everybody can see
10 it here in this public hearing format.

11 MR. KORGE: Well, I think that's a bit of an
12 overstatement, because although we're creating the
13 new definition of an MX district, we're not assigning
14 it to any area at this time, and I guess what is
15 confusing about it is that the description on this
16 yellow sheet --

17 CHAIRWOMAN MORENO: No, they are assigning
18 it --

19 MR. MAYVILLE: They are.

20 CHAIRWOMAN MORENO: -- to that Merrick Park
21 area. They are assigning it.

22 MR. STEFFENS: Yeah, but that has to go
23 through the public hearings for rezoning.

24 CHAIRWOMAN MORENO: Right now, what we're
25 saying -- what we will be saying if we approve it --

1 MR. STEFFENS: We're not rezoning here.

2 CHAIRWOMAN MORENO: If we approve it --

3 MR. STEFFENS: We're changing text.

4 MR. MAYVILLE: That's what I asked, but

5 that's not what was -- That's not what --

6 MR. PARDO: What you missed last week was

7 that --

8 CHAIRWOMAN MORENO: Mr. Siemon, what are we

9 doing?

10 MR. SIEMON: If you look in the column next

11 to the positives and negatives, the last sentence is,

12 "Will require change in land use zoning which is more

13 appropriate for entire industrial area."

14 MR. KORGE: Where is that?

15 CHAIRWOMAN MORENO: Right here.

16 MR. KORGE: Oh, I see, the little column.

17 MR. PARDO: We had a guy come in here, a

18 property owner, commercial, not residential -- forget

19 the residential, they have no idea what's happening

20 before -- right now at the City. But we had a guy

21 that owns the property where Century Bank is, on the

22 southeast corner of Ponce Circle, and he came in and

23 he said, "You know, I'm an attorney, and I own this

24 property. With today's Code, I could build 45 feet

25 in height, because I'm abutting single-family

1 residential and I get a FAR of 3.0."

2 This man's on top of his property every
3 single day. He finds out that this conceptual map
4 brought him down to 35 feet in height and an FAR of
5 1.0, and he says, "I'm going to sue the City."

6 You know, this is great for people that are
7 in real estate and speculating, but we're looking at
8 these changes in mass, without saying, "What are the
9 ramifications when we lose all the duplexes in the
10 City? What are the ramifications when we start
11 changing property owners' rights that they have today
12 under the present Zoning Code?"

13 MR. KORGE: Well, I --

14 MR. PARDO: I asked, the last time --

15 MR. KORGE: I'm still confused, I'm sorry.
16 What -- Are we creating a definition for MX? We're
17 doing that, and it will be in the Code?

18 MR. SIEMON: There are two separate
19 recommendations that have been advanced. One is to
20 convert the existing MXD3 into an MX district that
21 would be a map district, as opposed to an overlay
22 district, a floating district.

23 MR. KORGE: So that's a zoning change for
24 that area.

25 MR. SIEMON: That's a text change in the

1 Code, period.

2 MR. KORGE: It doesn't affect that area?

3 MR. SIEMON: It doesn't affect anybody's
4 land area, except that you have one MXD3 that's
5 already approved out there, and it would get that MXD
6 designation.

7 MR. KORGE: Well, then, it changes that,
8 doesn't it, because it eliminates --

9 MR. SIEMON: No, it's already got the
10 designation.

11 CHAIRWOMAN MORENO: It's already -- It was
12 already approved.

13 MR. KORGE: No, wait. Let's just back up.
14 Let me see if I understand this.

15 MR. SIEMON: You'll eliminate the underlying
16 zoning district for the existing MDX3.

17 MR. KORGE: Yeah, it's a change. That's a
18 change, isn't it? The industrial designation
19 disappears. The underlying industrial designation
20 disappears.

21 MR. PARDO: Of course. You just changed the
22 zoning.

23 MR. SIEMON: At this point, the MXD overlay
24 controls, and all we're going to do is replace it --
25 we're going to eliminate the irrelevant I district

1 underneath the existing approved MXD3.

2 MR. KORGE: Okay, let me see if I understand
3 this, then, because -- I mean, when I say understand,
4 I'm not challenging you. I don't understand.

5 MR. PARDO: No, no, you're on this.

6 MR. KORGE: Under the MXD3 district that we
7 have now, could someone build industrial in there?

8 MS. DOUGHERTY: Yes.

9 MR. RIEL: Yes.

10 MR. SIEMON: Yes.

11 MR. RIEL: Yes, absolutely.

12 MR. KORGE: After we make this change, could
13 someone build industrial in there?

14 MR. PARDO: No.

15 MR. SIEMON: No.

16 MR. PARDO: No, every body shop would be a
17 legal nonconforming.

18 MR. RIEL: There's one.

19 MR. KORGE: So it is a change there?

20 MR. SIEMON: It is a change.

21 MR. KORGE: Okay, and --

22 CHAIRWOMAN MORENO: Our Comprehensive Land
23 Use Plan requires that we make this change?

24 MR. SIEMON: The Comprehensive Plan
25 contemplates that this area --

1 MR. PARDO: No, it contemplates that.

2 MR. SIEMON: -- will be used for a mixed-use
3 purpose.

4 MR. KORGE: Okay, but let's not go there
5 yet, because there's a change taking place, so I
6 think the objection that I'm hearing is, not that
7 this is a bad change, but that if we're going to have
8 a change, we need to go through a public hearing
9 process so the owners affected by the change, and the
10 adjacent owners, know that this change is taking
11 place, they can come in, voice their objections, make
12 suggestions or whatever.

13 If we adopt what you're recommending, we're
14 short-circuiting --

15 MR. MAYVILLE: Yeah.

16 MR. KORGE: Are we short-circuiting that
17 process?

18 MR. SIEMON: No, sir.

19 MR. RIEL: No.

20 MR. KORGE: No, we're not?

21 MR. SIEMON: There's going to be a public
22 hearing on the zoning map, which will become the
23 official zoning map.

24 MR. MAYVILLE: But there's going to be a
25 whole lot of items on this.

1 MR. PARDO: Wait a minute, Charlie.

2 MR. MAYVILLE: It's not going to be this one
3 particular item.

4 MR. SIEMON: There are not going to be a
5 whole lot of items.

6 MR. MAYVILLE: There's going to be more than
7 one.

8 MR. SIEMON: There will be some.

9 MR. PARDO: Charlie, what would have
10 happened if Mr. Maxey, that came in, the attorney
11 that came in last week, didn't come in, or didn't
12 realize that the little color on this thing got
13 changed to CL?

14 MR. SIEMON: This would not -- with all due
15 respect --

16 MR. PARDO: Legally, he's dead.

17 MR. SIEMON: Would you just allow me to
18 speak, sir?

19 MR. PARDO: Absolutely.

20 MR. SIEMON: Mr. Pardo, I stood before this
21 body, and you were here, and I explained to you that
22 the conceptual map was prepared for illustrative
23 purposes. Illustrative purposes. I'm confident that
24 you understand what that term means. It did not
25 represent a proposed zoning map, sir, and I told you

1 that it was done by a computer, and all that computer
2 did was take one color and exchange it for another,
3 because some members of the public asked to see what
4 a map might look at (sic), and I made it very clear
5 that that was the process and that we would not spend
6 the money or energy to prepare a proposed map until
7 you all had completed your deliberations about the
8 underlying provisions of the Code.

9 And what that man would have been treated to
10 wasn't affected in any way by that document. And for
11 you to suggest that we somehow tried to pull a fast
12 one, that I was a party to that, sir --

13 MR. PARDO: Wait, wait, wait. You're
14 putting --

15 MR. SIEMON: -- is just simply --

16 MR. PARDO: Wait, wait, wait, wait, wait.
17 Wait, excuse me. You're getting very personal on
18 this thing. Let me explain something.

19 MR. SIEMON: I am responding, Mr. Pardo.

20 MR. PARDO: No, no, wait, wait, wait, wait,
21 wait, wait. I didn't say you slid anything. I never
22 used those words, in any way, shape and form.

23 MR. SIEMON: You just used them for the
24 second time in this meeting, sir, and if you'd like
25 me to get the tape and show --

1 MR. PARDO: No, no, no. I think Mr.
2 Mayville said that it was a sly way of doing
3 something else. I never said sly or slid or anything
4 like that.

5 I want to make sure that you understand
6 something. The man that came before us at the last
7 meeting, when you were not here, he said, "I'm a
8 property owner and I have a right." Based on the
9 designation of CL, based on this zoning provision
10 that you, as a paid consultant to this City, came up
11 with, he said specifically that, "Based on this, my
12 land, now I get to build ten feet less and one third
13 of the amount of FAR."

14 Charlie, I didn't say anything -- I just --
15 I just repeated what Mr. Maxey, standing right there,
16 said to me, as a landowner. At that time, I
17 suggested that when we look at this, when we look at
18 this conceptual -- First of all, I think that maybe
19 this should have been done where the map gets looked
20 at first, and then you write this in conjunction with
21 it. You chose to write it this way. I don't have a
22 problem.

23 CHAIRWOMAN MORENO: But --

24 MR. PARDO: You said that you're
25 reorganizing --

1 CHAIRWOMAN MORENO: -- we're doing something
2 different. We are --

3 MR. PARDO: I would like to finish answering
4 what he --

5 CHAIRWOMAN MORENO: Felix, but you go on and
6 on and on. Get to the point.

7 MR. PARDO: Well, you know, but the point
8 is that --

9 CHAIRWOMAN MORENO: We're going to be here
10 until eleven o'clock. Get to the point.

11 MR. PARDO: Well, you know, I think this is
12 important, that, you know, we've all got to do
13 something. You know, this is -- this is the most
14 important thing that this City has, and I think that
15 we can't get to the point where we can ignore these
16 tremendous changes and think that there aren't
17 ramifications.

18 (Thereupon, Ms. Moreno left the Commission
19 Chambers.)

20 MR. KORGE: Well, the question I was asking
21 and getting towards was, the process -- I mean, if
22 we're going to make -- we are making changes, or we
23 will be making changes, assuming that these
24 recommendations are adopted -- the process that the
25 affected property owners will receive appropriate

1 notice and a fair opportunity to be heard, that's
2 my --

3 MR. RIEL: Absolutely.

4 MR. KORGE: And I think that's what Bill's
5 saying.

6 MR. RIEL: Absolutely.

7 MR. MAYVILLE: I don't want us to go through
8 this --

9 MR. RIEL: They will. They will.

10 MR. SIEMON: They're going to absolutely --

11 MR. RIEL: And we're just looking for your
12 policy direction to proceed forward that next step.
13 We need you to tell us --

14 MR. KORGE: Right.

15 MR. RIEL: -- that you don't think this is a
16 good idea or this is a good idea. We're not going to
17 go out and notify the folks and let them all come
18 into this hearing, and you all say, "We think it's a
19 horrible idea" --

20 MR. KORGE: I understand.

21 MR. RIEL: -- when we've pulled all those
22 folks out.

23 MR. KORGE: Okay, so they're going to --

24 MR. RIEL: We want your direction --

25 MR. KORGE: Let me just cut you off.

1 They're going to get the same notice that they would
2 get if we did this by the other -- the normal process
3 when we were doing a Code rewrite.

4 MR. RIEL: Absolutely. They will be
5 receiving notice, as well as neighborhood meetings.

6 MR. KORGE: So I don't have a problem with
7 that.

8 MR. MAYVILLE: That's -- I don't --
9 That's -- see, I don't see how that happens, and the
10 reason for it is, the first reading of this is
11 scheduled for December 11th, so we're talking less
12 than three weeks. We've got a week for a holiday, so
13 we're talking about two weeks. When is it going to
14 happen? I mean, you tell me. You can't even get --

15 MR. SIEMON: Are we talking about the map?

16 MR. MAYVILLE: No, no. My understanding
17 from Eric was that --

18 MR. RIEL: The first reading is going to
19 be --

20 MR. MAYVILLE: -- the first reading of
21 this --

22 MR. SIEMON: On the text of the Code?

23 MR. MAYVILLE: Right, that is going in the
24 Code, and if we can support this, this is going to be
25 written into this body, correct, that's going to go

1 for first reading?

2 MR. KORGE: But not the map portion of it.

3 MR. MAYVILLE: I understand, but my point
4 is --

5 MR. KORGE: In other words, let me
6 interject. What I understand --

7 (Simultaneous inaudible comments between
8 Board members)

9 MR. KORGE: What I understand is that the
10 location of the MX -- the new MX district will not be
11 decided when the Code is approved. It will only be
12 decided when the map is approved, which is a separate
13 process. Is that what we're saying?

14 MR. SIEMON: Yes.

15 MR. GONZALEZ: When the land use plan is
16 approved.

17 MR. PARDO: No, you're changing -- you've
18 taken the overlay out, and I thought that you
19 explained to us, when we first looked at the MXD,
20 Eric, that you said that the reason we were utilizing
21 an overlay is to be able to preserve the underlying
22 zoning to the property owners, with -- so they can be
23 included, the same as every overlay that exists, and
24 by the way, Charlie, there are other areas that are
25 mixed use in this City, other than the industrial

1 section. There are other areas that are mixed use
2 already, and the thing is that, if you're a property
3 owner, you then --

4 (Thereupon, Ms. Moreno rejoined the Board;
5 Mr. Korge left the Commission Chambers.)

6 MR. PARDO: -- can be allowed to maintain
7 your zoning and work under that zoning, or you can
8 take advantage of the overlay, and that's the reason
9 that Eric explained to us, the first time, that he
10 wanted to use it as an overlay mechanism.

11 On the other hand, you're changing it
12 dramatically to a strict rezoning of all the property
13 in that area, you know, with or without the okay of
14 those individual property owners that have rights.

15 MR. RIEL: And it's your concern that we
16 haven't gotten with those property owners? We've
17 had --

18 MR. PARDO: No, no, no, no.

19 MR. RIEL: I'm just trying to understand
20 your concern, I mean, because we have had numerous
21 meetings.

22 MR. STEFFENS: I have a question in relation
23 to that for Lucia.

24 When you came here, requesting that change
25 to the MXD overlay, what percentage of the property

1 owners were behind your request?

2 MS. DOUGHERTY: A hundred percent.

3 MR. STEFFENS: I'm sorry?

4 MS. DOUGHERTY: One hundred percent.

5 MR. STEFFENS: One hundred percent. So we
6 wouldn't be affecting any property owner in that area
7 by doing what we're doing. They all wanted the MXD
8 overlay district.

9 MR. PARDO: How do you know that? How do
10 you know? Does she represent every landowner?

11 MS. DOUGHERTY: Everybody.

12 MR. STEFFENS: How many --

13 MS. DOUGHERTY: We had to get a petition --

14 MR. STEFFENS: What percentage of the
15 owners in that neighborhood --

16 MS. DOUGHERTY: We had a petition signed by
17 a hundred percent of the owners.

18 MR. PARDO: A hundred percent of the owners?

19 MS. DOUGHERTY: Right. Otherwise, he
20 wouldn't have accepted our application.

21 MR. PARDO: So, basically, right now, the
22 people that are going to reap the financial benefits
23 of that area, based on this change of zoning, are all
24 on board?

25 MR. STEFFENS: No, the area of zoning that

1 will change --

2 MS. DOUGHERTY: The area -- the north area.

3 MR. STEFFENS: The area of zoning that will
4 change by this text change --

5 MR. PARDO: Okay, I'm sorry, you're saying
6 you have a hundred percent of the people --

7 MR. STEFFENS: The northern portion.

8 MR. PARDO: -- that are under the overlay
9 right now?

10 MS. DOUGHERTY: Correct.

11 MR. STEFFENS: Yes. The area that would be
12 affected by this text change, a hundred percent of
13 those people came in here and requested the MXD
14 overlay district.

15 Now, the other area, which may or may not,
16 in the future, become an MX district, based on the
17 application of this text change, we would have to go
18 to and talk to them and have a meeting with them and
19 go through a zoning change with them.

20 MS. DOUGHERTY: I'm only suggesting you do
21 the exact same notice requirements as you did for the
22 first one, for the second.

23 MR. PARDO: The one that was approved?

24 MS. DOUGHERTY: Correct.

25 MR. PARDO: Okay, and, Charlie, so I

1 understand, the overlay -- the advantage, in your
2 opinion, to the rezoning instead of the overlay is
3 what?

4 MR. SIEMON: We generally believe that it's
5 appropriate to zone property according to its planned
6 use, so that you can establish criteria and
7 procedures and standards for approving those
8 uses, that the change in zoning involved in applying
9 an overlay to it is a less predictable outcome. It
10 doesn't induce a property owner to invest in the
11 direction you want them to go.

12 And the Comprehensive Plan anticipates mixed
13 use, everything I've ever heard anticipates mixed
14 use, and we think it ought to be designated mixed
15 use. That's why we've made this recommendation.

16 (Thereupon, Mr. Korge rejoined the Board.)

17 MR. PARDO: Do you ever see --

18 CHAIRWOMAN MORENO: Okay, do we have a
19 motion on this, please?

20 MR. KORGE: Why do you look at me?

21 MR. STEFFENS: You're very good at motions.

22 MR. KORGE: Maybe we should split this
23 question.

24 CHAIRWOMAN MORENO: Okay.

25 MR. KORGE: I'll move that we create a new

1 MX district that would conform to the existing
2 requirements under the MXD3, in lieu of an MXD3
3 district.

4 MR. SIEMON: That's an overlay.

5 MR. KORGE: Well, that we create it in the
6 Code. This would be an existing mixed-use
7 designation, but not assigned to any particular
8 property at this time. That's the first part of --
9 that's the first motion, and then I'll come back with
10 a second motion regarding, you know, how we would
11 assign it and when we might assign it.

12 CHAIRWOMAN MORENO: Do we need that
13 recommendation? I don't think we need that.
14 That's -- We do need it?

15 MR. SIEMON: Yes.

16 CHAIRWOMAN MORENO: Okay. Okay, then, do I
17 have a second?

18 MR. STEFFENS: Second.

19 MR. MAYVILLE: Well, can I ask --

20 CHAIRWOMAN MORENO: Okay. Call the roll.

21 MR. MAYVILLE: Can I just ask one question?

22 CHAIRWOMAN MORENO: No, it's over. Call the
23 roll, please.

24 MR. MAYVILLE: There's a motion --

25 CHAIRWOMAN MORENO: No, call --

1 MR. MAYVILLE: -- but there's no discussion.

2 CHAIRWOMAN MORENO: Call the roll, please.

3 MS. MENENDEZ-DURAN: Tom Korge?

4 MR. KORGE: Yes.

5 MS. MENENDEZ-DURAN: Bill Mayville?

6 MR. MAYVILLE: No.

7 MS. MENENDEZ-DURAN: Felix Pardo?

8 MR. PARDO: No.

9 MS. MENENDEZ-DURAN: Michael Steffens?

10 MR. STEFFENS: Yes.

11 MS. MENENDEZ-DURAN: Tony Gonzalez?

12 MR. GONZALEZ: Yes.

13 MS. MENENDEZ-DURAN: Cristina Moreno?

14 CHAIRWOMAN MORENO: Yes.

15 Now, Mr. Mayville.

16 MR. MAYVILLE: What's the point? It's

17 already -- the vote's already been made, so --

18 CHAIRWOMAN MORENO: I'm sorry?

19 MR. MAYVILLE: The vote's already been made,

20 so what's the point?

21 CHAIRWOMAN MORENO: Okay.

22 MR. MAYVILLE: Let's go on to the next --

23 MR. KORGE: Well, then -- I'm not sure how

24 to phrase the second motion, because quite frankly, I

25 want to be sure that --

1 MR. STEFFENS: Tom, before you make your
2 second motion, you were out of the room when I asked
3 Lucia, in the area that would be affected by this
4 change from the I -- the MXD overlay to the -- and
5 eliminating the I, a hundred percent of the property
6 owners in that area came in with her and signed a
7 petition to change it to the MXD overlay district.
8 That's the area that we had changed previously.

9 MR. KORGE: Right.

10 MR. STEFFENS: So all the owners in that
11 area requested that overlay district.

12 MR. KORGE: I understand that, but here's
13 the point that I think Bill was making, and I can't
14 really disagree with it. There is a process, and the
15 process exists for a reason, and the reason is to
16 protect the property owners, not just the ones
17 affected directly by any change, but also the
18 adjacent property owners.

19 I suspect that if we went through that
20 process for the existing MXD3 area, there would be no
21 objections and it would go through swimmingly. But I
22 don't understand --

23 CHAIRWOMAN MORENO: Well, why don't we
24 break -- why don't we break it up and assign MX to
25 the area that we already had the public hearing on,

1 that North Gables area --

2 MR. STEFFENS: What Tom's saying, that's
3 changing zoning --

4 MR. KORGE: Wait --

5 MR. STEFFENS: -- and we should go through
6 the process of a zoning change.

7 MR. KORGE: No, let me back up. Let me back
8 up, because this is where I'm getting confused. I
9 understood that we were going to go through this
10 whole process for every -- any change whatsoever.

11 MR. PARDO: Well, that's what I understood,
12 too, but now apparently we're going to now designate
13 it.

14 MR. KORGE: No, he said that we're going to
15 go through that process. He's said that, I don't
16 know how many times.

17 You said, "We're going through the whole
18 process. If and to the extent that we recommend to
19 you that the new MX be assigned to either the
20 existing MXD3 district or that one and the Dixie
21 Highway portion of the industrial area, that that's
22 still" -- Our vote on that will not change it.

23 CHAIRWOMAN MORENO: Right. It's going to
24 come before us again.

25 MR. KORGE: Our vote on that is simply an

1 indication of our interest to pursue that, and that
2 we may decide to the contrary when it comes before
3 us and we hear public input.

4 CHAIRWOMAN MORENO: If the public -- if the
5 public opposes it. That's my understanding, as well.

6 MR. SIEMON: That's correct.

7 CHAIRWOMAN MORENO: That's correct.

8 MR. PARDO: Don't you think this Planning
9 Board should be asking both the consultant and Staff
10 to come up and give us the hard facts so we can make
11 a proper decision when it comes to these particular
12 areas, specific areas?

13 MR. KORGE: Yes, and that's what we're doing
14 by voting on this. What we're saying to them is,
15 "Okay, we'll hear what you have to say, so it's worth
16 enough of your time to get all the facts together.
17 It's worth it to us, we're interested enough, to
18 impose on the public to give us their input."

19 MR. RIEL: Correct.

20 MR. KORGE: I mean, I -- to me, it would be
21 disrespectful and a waste of everybody's time and
22 money to have them go ahead and prepare something
23 when we're unanimously opposed to it, for example.

24 CHAIRWOMAN MORENO: Uh-huh.

25 MR. KORGE: That's what he's saying, and

1 that's all he's saying --

2 CHAIRWOMAN MORENO: That's correct.

3 MR. KORGE: -- and that's the reason why I'd
4 move the second part, that we approve going forward
5 to consider -- and I want it phrased it that way --

6 MR. PARDO: Okay, phrase it.

7 MR. KORGE: -- the new MX district being
8 assigned both to the existing MXD3 district and the
9 industrial portion by South Dixie Highway that is --
10 all of which is designated in Column 3 of Policy
11 Number 5, on Page 4 of our little spreadsheet.

12 MR. STEFFENS: Second.

13 MR. KORGE: Is that clear enough?

14 MR. MAYVILLE: But give me the timetable of
15 how this would work.

16 MR. KORGE: I can't give you the timetable.

17 MR. MAYVILLE: Well, anybody, give me a
18 timetable how --

19 MR. STEFFENS: A lot longer than the
20 beginning of December.

21 MR. MAYVILLE: Well, that's what I'm saying.
22 Are we looking to have the Code rewritten and
23 approved by the Commission before this thing is
24 heard?

25 MR. RIEL: I think that's going to be a

1 subject of the Commission when this -- we provide
2 them an update next Tuesday.

3 MR. PARDO: I don't understand that.

4 MR. SIEMON: I late to belabor this, but I
5 want to rephrase it and hope that I can -- We
6 prepared -- I told you before, we prepared the best
7 draft we could based on the input and knowledge we
8 had. We identified about 25 issues that we didn't
9 feel comfortable in resolving and preparing a
10 proposed Code.

11 Some of them were controversial, like the
12 lot split, and so we -- the process was worked out to
13 bring it to you all, as representatives of the
14 community, in a public forum, to take input in
15 hearings, to resolve those issues, so that we could
16 prepare a proposed draft, and that's why we very
17 carefully put Working Draft on it.

18 During that process, somebody asked us to
19 prepare a map so they could see what it might look
20 like, and with all the appropriate disclosures. Even
21 though I recommended we not produce a draft, because
22 some people might misunderstand what the purpose of
23 the draft is, we were compliant and did what someone
24 asked us to do. But all we're trying to produce is a
25 proposed draft, that will go through the formal

1 public hearing process.

2 MR. MAYVILLE: And all I'm saying is, it's
3 going to go through the public hearing with a whole
4 bunch of other issues all at the same time, rather
5 than this item being heard separately. This is a
6 big -- it's not like a small area.

7 MR. SIEMON: Well, I --

8 MR. MAYVILLE: I'm just saying, why can't it
9 go -- why can't the rewrite take place without this
10 item being addressed, and then address it after the
11 rewrite as a separate public hearing, because of the
12 magnitude of the area?

13 MR. SIEMON: The answer to that question is,
14 we're going to result -- Felix has identified one
15 example. The CL was identified among -- were
16 primarily CA districts, and they were all parcels of
17 land that were adjacent to residential properties,
18 and so that was the mapping methodology that was used
19 to paint that map.

20 We know that there are some impacts on some
21 properties, and so policy choices at a specific level
22 are going to have to be made in preparing that map.

23 MR. PARDO: Charlie, the reason I asked for
24 the map -- the reason I asked for the map is that all
25 these different zoning classifications that you're

1 proposing aren't in a vacuum. You know, they're --
2 when you see them in conjunction to the other zoning
3 classifications that you have, at least I have a
4 better understanding, understanding what the
5 limitations and the constructs that you put on these
6 new classifications, based in height, volume, FAR and
7 uses. That's the reason I asked for them. It gives
8 me a better -- it gives me a better tool
9 understanding, and then also, I think we're also able
10 to gain time in the future when we're looking at the
11 actual map that you would be looking at, to be able
12 to implement the new Zoning Code.

13 CHAIRWOMAN MORENO: Okay, we have a motion.
14 Mr. Mayville made some comments on it.

15 MR. KORGE: We don't have a second.

16 MR. STEFFENS: Yes, I seconded it.

17 MR. KORGE: Oh, you seconded it?

18 MR. STEFFENS: Yeah.

19 CHAIRWOMAN MORENO: There's a second.

20 Are there any more comments on the motion?
21 Otherwise, my understanding of Tom's proposal and
22 what was seconded is that we recommend that they go
23 further and study this further. That's all we're
24 really doing.

25 MR. RIEL: Can we --

1 CHAIRWOMAN MORENO: Okay, can we call the
2 question on that?

3 MR. MAYVILLE: Is that -- in fact, it's not
4 going into the Code, is that correct, Tom? It's only
5 going to be a study?

6 MR. KORGE: The description of MX goes into
7 the Code. The assignment to any particular area is
8 what we're discussing, and the proposal, as I recall
9 the motion, was that they would come back to us with
10 a recommendation on the areas to be assigned, and it
11 would have to go through the full process of
12 rezoning, like any other area would go through.

13 MR. MAYVILLE: Can you read the motion,
14 then, so I can hear what the motion is?

15 MR. RIEL: The way I have it written is,
16 approve to consider assignment of the MX zoning
17 classification to the north and south area,
18 industrial area.

19 CHAIRWOMAN MORENO: That's my understanding.

20 MR. RIEL: That's what I have.

21 CHAIRWOMAN MORENO: Okay. Can we call the
22 roll?

23 MS. MENENDEZ-DURAN: Bill Mayville?

24 MR. MAYVILLE: On that basis, I'll say yes.
25 I'll support you.

1 MS. MENENDEZ-DURAN: Felix Pardo?

2 MR. PARDO: Yes.

3 MS. MENENDEZ-DURAN: Michael Steffens?

4 MR. STEFFENS: Yes.

5 MS. MENENDEZ-DURAN: Tony Gonzalez?

6 MR. GONZALEZ: Yes.

7 MS. MENENDEZ-DURAN: Tom Korge?

8 MR. KORGE: Yes.

9 MS. MENENDEZ-DURAN: Cristina Moreno?

10 CHAIRWOMAN MORENO: Yes.

11 MS. DOUGHERTY: Madam Chair, could I ask the

12 Staff, what's their timing on this, on doing that?

13 The timetable, the time?

14 MR. RIEL: In terms of the -- Let me get

15 with you on that, okay?

16 MS. DOUGHERTY: Okay.

17 CHAIRWOMAN MORENO: Thank you. Thank you

18 very much, Ms. Dougherty.

19 MS. DOUGHERTY: Thank you.

20 CHAIRWOMAN MORENO: Is that it for tonight?

21 MR. KORGE: We've still got the mixed use --

22 MR. RIEL: It's up to this Board.

23 CHAIRWOMAN MORENO: I'm sorry?

24 MR. RIEL: It's up to the Board, if you'd

25 like to proceed. I mean, our next meeting is

1 December 1st.

2 MR. KORGE: Wait, wait, wait. You also had
3 recommended mixed use with commercial by conditional
4 use, anywhere that commercial exists, as I recall.

5 MR. PARDO: Anywhere?

6 MR. SIEMON: That's correct.

7 CHAIRWOMAN MORENO: Yes.

8 MR. SIEMON: In the C districts.

9 MR. KORGE: In the C --

10 MR. SIEMON: C district.

11 MR. KORGE: In the C district.

12 CHAIRWOMAN MORENO: Are we totally --

13 MR. SIEMON: And it's also technically in
14 the I district. Until there is actually a map
15 decision made to eliminate the I district or to
16 replace it with all MXD, it has to remain in the
17 Code. So the mixed use by conditional use is
18 permitted, in this draft, in the C district and the I
19 district.

20 MR. PARDO: Where does that -- where is it
21 effective now, what area? What area in the City of
22 Coral Gables is it effective?

23 MR. SIEMON: Well, it's primarily the areas
24 that are currently designated CC and industrial in
25 the existing map.

1 MR. PARDO: But isn't this the only
2 industrial designated area?

3 MR. SIEMON: Yes, at the -- at the -- near
4 Merrick Park.

5 MR. PARDO: Where are the CCs that --

6 MR. SIEMON: It's the CBD, major -- heavy
7 commercial along U.S. 1 --

8 MR. RIEL: Well, there's CC around the
9 industrial area now.

10 MR. PARDO: But they're allowed to have
11 residential there now, right? Excuse me?

12 CHAIRWOMAN MORENO: Not as a mixed use.

13 MR. RIEL: Not as mixed use.

14 MR. PARDO: They're not allowed?

15 MR. RIEL: Certain areas, no.

16 MR. PARDO: But --

17 CHAIRWOMAN MORENO: So this would make it a
18 conditional use, which would require our approval
19 before it was --

20 MR. RIEL: Yes.

21 CHAIRWOMAN MORENO: -- finalized?

22 MR. RIEL: Yes, yes.

23 CHAIRWOMAN MORENO: Okay. Do I have a
24 motion on that?

25 MR. KORGE: I'll make that motion.

1 MR. STEFFENS: I'll second that motion.

2 CHAIRWOMAN MORENO: Call the roll, please.

3 MR. MAYVILLE: What's the motion?

4 MR. KORGE: The motion is to adopt a

5 recommendation --

6 MR. PARDO: Where's the CC?

7 MR. KORGE: -- of mixed use with -- what

8 designation is it, C?

9 MR. SIEMON: C and I, under the proposed

10 draft.

11 MR. KORGE: Under the proposed draft, but

12 only as a major conditional use.

13 CHAIRWOMAN MORENO: Which would require

14 approval before it went forward. Okay?

15 Call the roll, please.

16 MS. MENENDEZ-DURAN: Michael Steffens?

17 MR. STEFFENS: Yes.

18 MS. MENENDEZ-DURAN: Tony Gonzalez?

19 MR. GONZALEZ: Yes.

20 MS. MENENDEZ-DURAN: Tom Korge?

21 MR. KORGE: Yes.

22 MS. MENENDEZ-DURAN: Bill Mayville?

23 MR. MAYVILLE: Yes.

24 MS. MENENDEZ-DURAN: Felix Pardo?

25 MR. STEFFENS: Felix --

1 CHAIRWOMAN MORENO: He's off somewhere.

2 MS. MENENDEZ-DURAN: Cristina Moreno?

3 CHAIRWOMAN MORENO: Yes. Okay.

4 MR. MAYVILLE: Could I get clarification on
5 one thing came up at the last meeting? I've had
6 several people -- and it's coming up before the
7 Commission on Tuesday, dealing with the sleep
8 centers. How have we classified them under the new
9 Code, if it's different than what we are classifying
10 it now?

11 MR. RIEL: It's classified as a medical
12 clinic.

13 MR. MAYVILLE: Right now, it's -- right now,
14 before -- the old -- under the present Code, we have
15 it classified as an S?

16 MR. RIEL: No, we don't have it classified
17 at all. That's why the whole issue is coming before
18 the Board, because there is not a use that is
19 indicated as sleep center, and it went to the Board
20 of Adjustment.

21 MR. MAYVILLE: But we made a recommendation,
22 and which was that it would be S, tied to a hospital.

23 MR. RIEL: No, the Board's recommendation
24 was that the sleep center undergo a public hearing
25 process, and the second part of the recommendation

1 was that it basically stated the fact that there is
2 only one sleep center within the City, and that is in
3 an S use, which is Doctors' Hospital. That's exactly
4 the way the recommendation --

5 MR. PARDO: Madam Chair, if you could record
6 my vote as a yes on the previous --

7 CHAIRWOMAN MORENO: Thank you.

8 MR. SIEMON: Excuse me, where are we now?

9 MR. STEFFENS: We don't know.

10 CHAIRWOMAN MORENO: He voted yes.

11 MR. SIEMON: No, no, I mean, did we move on
12 to another subject matter?

13 MR. RIEL: I don't know.

14 MR. SIEMON: Oh, you're just kibbitzing?

15 MR. STEFFENS: Did Bill get his answer?

16 MR. MAYVILLE: Yeah, I got the question --

17 CHAIRWOMAN MORENO: Okay.

18 MR. MAYVILLE: It was about a medical
19 clinic.

20 CHAIRWOMAN MORENO: Can we do Policy 6?

21 MR. STEFFENS: But, Bill, it's classified as
22 a medical clinic with a 24-hour use, which is a major
23 conditional use.

24 MR. RIEL: Which has performance standards,
25 which comes before this Board.

1 MR. SIEMON: And Madam Chairman, that's
2 really what we have proposed for the X uses, that
3 they be -- they're sort of special problem uses, and
4 we've suggested they ought to be subject to the major
5 conditional use approval process, subject to those
6 standards in making determinations as to when and
7 where future X uses should be located.

8 MR. PARDO: Charlie, do you know how many X
9 uses we have in the City left?

10 MR. SIEMON: Yes, sir.

11 MR. PARDO: How many?

12 MR. SIEMON: I didn't count them, but I
13 looked at the map and --

14 MR. PARDO: A couple dozen or --

15 MR. SIEMON: No, there are more than that.

16 MR. PARDO: How many?

17 MR. RIEL: I would say about a hundred.

18 MR. SIEMON: I agree.

19 MR. PARDO: A hundred?

20 MR. SIEMON: Yeah, I think. It's more than
21 50, I'm pretty sure, because I had started to do a
22 table and gave up on it.

23 MR. STEFFENS: What would X uses generally
24 include?

25 MR. PARDO: All sorts of things.

1 MR. SIEMON: They're all kinds of strange
2 stuff.

3 MR. PARDO: Parking lots --

4 MR. SIEMON: Parking lots that are in
5 residential districts, so you have an X.

6 MR. PARDO: Usually X uses in the past
7 would be considered, legally, today, a lot of times,
8 spot zoning. So you have to be very, very careful
9 how you look at those.

10 MR. SIEMON: Well, we think that the
11 conditional use standards that we proposed for major
12 conditional uses are -- will protect against that,
13 and we think that's one of the advantages of putting
14 it in a formal process, is, it requires specific
15 findings that it's consistent with the Comprehensive
16 Plan.

17 MR. PARDO: Well, Charlie, then, what would
18 you change them into? Because, you see, it says
19 underlying zoning district. Let's say you have,
20 basically, an office building in the middle of a
21 single-family residential area that was an X use, you
22 know, a million years ago, and then --

23 MR. SIEMON: We're probably not going to --
24 I would anticipate we're not going to recommend that
25 additional X uses be permitted -- of that kind be

1 permitted in a neighborhood --

2 MR. RIEL: Right.

3 MR. SIEMON: -- but that would have legally
4 nonconforming status.

5 MR. PARDO: What happens if it burns down?

6 You know, do you have anything that you --

7 MR. SIEMON: The nonconformity provision
8 would not allow it to be re-established, as they are
9 drafted.

10 MR. RIEL: Correct.

11 MR. SIEMON: And let me try to clarify.
12 When we go through this process of converting an X to
13 a conditional use in the district, we're going to
14 decide two things. One, is it an appropriate use to
15 be replaced, and if it's so, then it ought to be put
16 in a particular classification that will allow it to
17 be replaced.

18 If it shouldn't be, then it should be put in
19 the appropriate classification. And that, we're
20 going to have to do. For each of those hundred Xs,
21 we're going to have to go through that process.

22 CHAIRWOMAN MORENO: Now, for those hundred
23 Xs, they don't have to go through the conditional
24 use, it's just if they wanted to continue it or --

25 MR. PARDO: If they want to do something in

1 the future, there will be a provision in the Code
2 that says anything that was previously approved as an
3 X use will be considered to be an approved
4 conditional use, provided it was lawfully existing on
5 the date the Code is adopted.

6 MR. PARDO: Charlie, would you be able to
7 bring a few varied examples of that, the next time,
8 so we could --

9 MR. SIEMON: Sure.

10 MR. RIEL: It's actually -- You have a copy
11 of the zoning map. On the back page of each zoning
12 map --

13 MR. PARDO: No, no, I know, but what I
14 mean --

15 MR. RIEL: -- is listed all of those X uses.

16 MR. PARDO: At least, you know, for me,
17 let's say like --

18 MR. RIEL: I can get you a copy. We can get
19 a copy right now.

20 MR. PARDO: But, for example -- no, but,
21 you know, Eric, what I'm saying is, let's say it's
22 the -- whatever building, located here, historically,
23 it was done because of this; in this particular case,
24 this is what would happen. In other words, applying
25 the Code, to see how it works, if it does what we

1 think it will.

2 MR. SIEMON: But -- and we'll be glad to do
3 that, and I think that would be useful when we get to
4 the mapping process, particularly.

5 All we've done is look at some, a sample of
6 them, and concluded to ourselves that it makes sense
7 to put them in the conditional use process. We
8 haven't gone -- but in doing that, we've observed a
9 few -- without consulting with anybody, but we've
10 looked at the land use district they're located in,
11 the nature of the X use, and asked, "How in the world
12 did that get there, and should it be there," because
13 if it burns down and it ought not to be replaced,
14 then there should be some -- that's a different
15 matter than if it's an appropriate X use.

16 And we're just going to have to deal with
17 that when we go through the mapping process, because
18 we're going to -- when we're done, we intend to have
19 a map that tells everybody what district they're
20 located in, if they're an X or an S use -- an X use,
21 what X use, and what document they look to for that
22 approval, and then, where there are special area
23 regulations, we want every one those parcels
24 triggered so that you know that you're subject to
25 those regulations, as well.

1 MR. PARDO: You know, Charlie --

2 CHAIRWOMAN MORENO: But going forward, you
3 don't want any more X uses. You want everything to
4 be a conditional approval --

5 MR. PARDO: That's correct.

6 CHAIRWOMAN MORENO: -- instead of an X.

7 MR. SIEMON: That's correct.

8 CHAIRWOMAN MORENO: Okay.

9 MR. PARDO: And, you know, there was an
10 example of a restaurant, a very well known restaurant
11 here, that it burned down. It was called Charades.
12 And what happened there was, then they could not
13 conform with the parking. Because they let too much
14 time expire, they weren't allowed to rebuild, and
15 therefore, it was something that a lot of people
16 said, "Gee, you know, it's really a shame," that --
17 so it's actually one example where it's -- you know,
18 they had some problems, but it was actually the
19 inverse, in other words, not that, "Oh, that was an
20 eyesore, that was a problem, good riddance." It was
21 something that people said, "Gee, it would have been
22 nice to be able to revert it back."

23 MR. SIEMON: But I think that exists under
24 your existing X code provisions, and we haven't
25 proposed to give --

1 MR. PARDO: To change that.

2 MR. SIEMON: -- any of those X uses any more
3 vested or protected status than they have today.

4 MR. PARDO: No more time or, you know --

5 MR. SIEMON: That's correct.

6 MR. PARDO: -- certain circumstances or
7 whatever, such as that.

8 CHAIRWOMAN MORENO: Okay. Are we ready to
9 vote on this?

10 MR. KORGE: Do you want me to make a motion
11 again?

12 CHAIRWOMAN MORENO: Yes, please.

13 MR. KORGE: I'll motion -- I move to
14 incorporate the X uses into the underlying zoning
15 districts as conditional -- major conditional uses.

16 MR. STEFFENS: Second.

17 CHAIRWOMAN MORENO: Vote?

18 MS. MENENDEZ-DURAN: Tony Gonzalez?

19 MR. GONZALEZ: Yes.

20 MS. MENENDEZ-DURAN: Tom Korge?

21 MR. KORGE: Yes.

22 MS. MENENDEZ-DURAN: Bill Mayville?

23 MR. MAYVILLE: Yes.

24 MS. MENENDEZ-DURAN: Felix Pardo?

25 MR. PARDO: Yes.

1 MS. MENENDEZ-DURAN: Michael Steffens?

2 MR. STEFFENS: Yes.

3 MS. MENENDEZ-DURAN: Cristina Moreno?

4 CHAIRWOMAN MORENO: Yes.

5 Okay. Policy 7 seems to me one that is
6 going to require a lot of discussion. Am I right?

7 MR. RIEL: I'm sorry, I didn't hear that.

8 CHAIRWOMAN MORENO: Item 7 --

9 MR. GONZALEZ: 7.

10 CHAIRWOMAN MORENO: -- looks to me like a
11 long one.

12 MR. RIEL: Yeah.

13 MR. SIEMON: Well, I mean, we could make
14 a -- we could take a shot at seeing whether at least
15 the first four were readily considerable, because
16 we've talked a lot about our minor and major
17 conditional use process, and I would hope that we've
18 gained some comfort in that process.

19 CHAIRWOMAN MORENO: Okay.

20 MR. SIEMON: The first is a City Architect.
21 We're recommending that the City -- because so many
22 of the matters really involve design, it's a lot more
23 now about how you do it than what you do, we think
24 the City would be well served by having a staff
25 professional with a background in design to work in

1 the development review process, to facilitate the
2 development review, and our experience is,
3 communities that do have a staff -- a qualified
4 architect on their staff in this process, that
5 improved design solutions are achieved.

6 With all due respect to planners, and I'm
7 one, we're not trained in the formal design arts and
8 we may suggest, and often do suggest, ideas that,
9 while they make intuitive sense, don't make practical
10 sense, either for structural or cost or other
11 matters. So we think this would be -- given that so
12 much of your character depends upon design, that this
13 would be a desirable thing to add to your -- and over
14 time would serve you well.

15 MR. PARDO: You're talking --

16 CHAIRWOMAN MORENO: Is there any opposition
17 to a City Architect?

18 MR. PARDO: Well, but you're talking
19 about -- Right now, the way it's written, it's a City
20 Architect, but you're talking about a Florida
21 registered architect?

22 MR. SIEMON: I'm not sure whether we said
23 Florida registered or not. It -- My own instincts
24 would be that because this person is not going to be
25 signing or sealing drawings, is just going to be

1 providing recommendations and advice in the process,
2 it's possible that someone who's not an active
3 Florida registered architect, who moves to South
4 Florida and is looking for a new job, or someone
5 who's retired from another community or something,
6 might be an appropriate professional.

7 (Thereupon, Mr. Mayville left the Commission
8 Chambers.)

9 MR. PARDO: Charlie, right now, the Board of
10 Architects that serve on the BOA, they not only have
11 to be licensed architects, but they also have to
12 reside and/or live in the City of Coral Gables for
13 ten years, and the reason is, you know, the ten-year
14 rule, it takes you ten years to figure out which way
15 is up, and they have a good understanding, or at
16 least mostly they have a good understanding.

17 If it's a position of this importance -- I
18 have run into people in municipalities where the
19 individual is not a registered architect, they're
20 someone fresh out of school, who does not know the
21 difference between the real world and not, and it's
22 been a horrible experience, because you can't talk to
23 them on an equal basis.

24 This individual, the responsibility of the
25 City Architect is very, very important and his

1 qualifications have to be, I think, you know, as --
2 at least as strict as the Board of Architects'
3 requirements.

4 MR. SIEMON: Well, I -- I've described, we
5 think finding someone to serve this position is going
6 to be a challenge. We think it's possible that
7 someone that would be attracted to it is someone not
8 just fresh out of school, but in fact somebody who's
9 at a different point in his career, someone who might
10 be -- look to be an adjunct at the University of
11 Miami or something.

12 MR. KORGE: Do we have any -- you know, I
13 understand, that makes a lot of sense, but do we have
14 any actual criteria?

15 MR. SIEMON: I'm just looking to see whether
16 there are specific criteria for that individual.

17 MR. PARDO: Thank you.

18 MR. SIEMON: I was just going to say, I was
19 with Alexander Garvin, a professor at Yale, earlier
20 this week, and asked him the question, whether he was
21 registered in Florida or not, and he was not, but I
22 can promise you that Alex would be a wonderful
23 advisor here.

24 Are the individuals after the Board?

25 MR. RIEL: Well, this whole issue of City

1 Architect, you know, was discussed at length during
2 the Mediterranean Ordinance, as well as the mixed
3 use.

4 To be quite honest with you, the City
5 Commission hasn't, you know, directed the City
6 Manager to proceed forward with, you know, acquiring
7 this person. We're just kind of re-emphasizing the
8 need for this position and actually put the language
9 in the Zoning Code. So that's what we're looking
10 for, in terms of your direction.

11 In terms of what this person's
12 responsibilities will do -- I mean, the job
13 description, it will be truly a City Architect, not
14 one person where they will be drawing plans of City
15 facilities. They will be a City Architect.

16 MR. KORGE: But if we put it in the Code,
17 they're going to have to strip it out when it gets to
18 them --

19 MR. RIEL: It's going to say --

20 MR. KORGE: -- if they don't want to hire
21 somebody.

22 (Thereupon, Mr. Mayville rejoined the
23 Board.)

24 MR. RIEL: It says City Architect in the
25 Code.

1 MR. KORGE: Okay, but my point is -- my
2 point is that, as I understand it, we're going to
3 have certain approvals that go -- instead of going to
4 the full Board of Architects, would simply go to the
5 City Architect.

6 MR. RIEL: Correct.

7 MR. KORGE: And so, if the Board -- if the
8 Commission decides that it does not want to increase
9 the budget to hire that person, then they're going to
10 have to strip it out of the Code entirely, because
11 the Code is going to require that it go to that
12 person.

13 MR. RIEL: They understand that. They
14 understand that.

15 MR. KORGE: Okay. So I think, if we're
16 going to go there, we should probably, you know, give
17 them some idea, especially since we have two
18 architects here on our Board, of the criteria, you
19 know, for hiring. It doesn't necessarily have to be
20 registered in Florida, it could be experience
21 requirements in lieu of registration in Florida, it
22 could be a number of things, but if we don't have
23 anything explicit -- My suggestion is, we should, you
24 know, probably do so, if that's a concern of the
25 architects.

1 MR. PARDO: You know, it's something that
2 your -- This is a paid professional. If you get a
3 draftsman, someone that has some sort of experience
4 in technical ends, they're not registered, you know,
5 they're making decisions for this City, you've just
6 watered down a minimum requirement that already
7 exists for --

8 MR. RIEL: It's not a draftsperson, okay?
9 This is not -- This is probably one of the most -- I
10 think one of the most important positions in the
11 City.

12 MR. PARDO: No, I'm saying it could be a
13 draftsman --

14 MR. KORGE: Excuse me for interrupting. For
15 that reason, we should, you know, specify --

16 MR. PARDO: Yes.

17 MR. KORGE: -- the minimum requirements for
18 the job, whatever they are.

19 MR. RIEL: And I don't necessarily agree,
20 but I think that's administration's responsibility.
21 We will certainly write the job description that way,
22 and, you know, whether it's Florida or --

23 MR. PARDO: This is not an ad that goes in
24 the paper. I'm talking about the minimum
25 qualifications of an architect that is the City --

1 CHAIRWOMAN MORENO: Isn't that up to the
2 Commission, to --

3 MR. GONZALEZ: All we're trying to do here
4 is just establish the position.

5 MR. RIEL: Yes.

6 MR. GONZALEZ: I think we're trying to
7 micromanage the thing. Let somebody else find out if
8 it's going to be a registered architect or a
9 draftsman, whatever it is. That's it.

10 MR. MAYVILLE: But I think there's a
11 conceptual issue involved between cost versus
12 benefit, and that's where I -- because I think what
13 you build is another bureaucracy within the City. He
14 doesn't just stand alone. You've got to build a team
15 around this individual, and the thing begins to
16 expand. We've seen it throughout the whole City.

17 I'm against it, not because -- I don't know
18 whether the City Architect will do a good job or
19 don't do a good job. I just have not seen
20 consistently that the City -- it just continues to
21 expand with its personnel, and I just don't think
22 you're going to get the kind of quality person for
23 the amount of dollars to give you the oomph that you
24 want to make the difference, compared to
25 professionals that are out making a living, doing the

1 architecture for clients. I just don't think you're
2 going to get that level of support.

3 CHAIRWOMAN MORENO: No, but the problem that
4 we have had and that has been voiced over and over
5 again is that the Board of Architects has approved
6 projects that people are not happy with their having
7 approved, and that the consensus, I think, of this
8 Board, when we were doing the Mediterranean
9 Ordinance, was that if there was a City Architect
10 that had some responsibility for making sure that
11 there's some consistency in application, it would be
12 beneficial.

13 That, I thought, was what we concluded when
14 we were looking at the Mediterranean ordinance, that
15 we needed someone to keep tabs and focus on the
16 issues that were of concern to the City, instead of a
17 process where the thing was a little bit free-flow
18 and they were changes in the members and there were
19 changes in philosophy that have resulted in things
20 that people have not been happy with.

21 MR. KORGE: And to eliminate the red tape
22 for routine decisions that need to be made by a
23 professional, not by -- a professional architect, not
24 by a professional planner, for example.

25 CHAIRWOMAN MORENO: But I think Tony's point

1 is absolutely right. We can't micromanage this. We
2 need to create the position, say we believe it should
3 be there, and then let, you know, the Commission and
4 the Manager decide who they hire for the bucks.

5 MR. PARDO: I'm not asking who they hire.
6 I'm saying, this Board legislates, in our Planning
7 Code, the requirement, for example, to sit on the
8 Planning Board you must be a resident, or to do
9 this -- It's in the planning. That has not been
10 taken out. How can we now say this City Architect
11 can be a non-architect? They probably couldn't even
12 legally call themselves an architect.

13 MR. RIEL: I don't believe we said that.

14 CHAIRWOMAN MORENO: Well, who's thinking
15 they're going to be a non-architect? It says City
16 Architect. How can you hire a non-architect?

17 MR. PARDO: Well, it just says design
18 professional. Change it to architect.

19 (Simultaneous comments of Board members)

20 MR. PARDO: Change it to architect. Change
21 the design professional to architect.

22 CHAIRWOMAN MORENO: Where does it say
23 design professional? It says City Architect.

24 MR. SIEMON: Actually, the qualifications
25 for the Board of Architects is that they shall be an

1 urban design professional, an architect or a
2 landscape architect.

3 MR. PARDO: That's in this Code or in the
4 existing one?

5 MR. SIEMON: The current Code.

6 MR. PARDO: In the existing one?

7 MR. SIEMON: Yes, sir.

8 I'd think that -- I'd like to suggest that
9 we should put some basic standards of -- professional
10 standards for the background of this person, and just
11 to Board Member Mayville's point -- and this is just
12 a personal professional opinion -- I think you've got
13 all the Code, but there's a hole in the -- and all
14 the staff, but there's a hole in the doughnut, and
15 that is somebody who is a design professional. And I
16 don't think it's creating a new bureaucracy. You're
17 already dealing with it, but we think somewhat
18 inefficiently, and our principle, and I didn't
19 mention it, but the Board Member did remind me, we
20 want to get those routine matters that are approved
21 over and over and over again into a codified base and
22 approved by a professional, so that you don't have to
23 go, be delayed, and have unnecessary costs for those
24 matters.

25 And everybody seems to believe that there

1 are 50 or so items that routinely go to the Board of
2 Architects. They have long since established the
3 rules, and if we codify them and have them
4 administered, we can improve the efficiency of the
5 process.

6 MR. MAYVILLE: But do you think the process
7 gets politicized by having this one person in that
8 role?

9 MR. SIEMON: That's not my experience.

10 MR. STEFFENS: Bill, this person would be
11 responsible, on a day-to-day basis, to approve
12 awnings and tiles on patios and driveway surfaces and
13 all the little junk that comes to the Board of
14 Architects and takes up 99 percent of their time.
15 And it would allow the Board of Architects to be
16 freed to deal with the real design issues that make
17 impacts in our City.

18 CHAIRWOMAN MORENO: And that we've
19 strengthened what the Board of Architects does, so we
20 need to give them more free time.

21 MR. STEFFENS: And I think, also, that this
22 person would be working with Dennis and Martha, as a
23 supplement, and providing the design background and
24 input to the team.

25 MR. KORGE: Right.

1 MR. STEFFENS: Dennis and Martha could
2 probably approve a lot of the stuff administratively,
3 if it was allowed, but it would be good to have an
4 architect in there, that could also put in his
5 professional experience into approving all these
6 petty little things, that everything has to come to
7 the Board now.

8 MR. SIEMON: And I think --

9 MR. MAYVILLE: I guess that's my question.
10 Is it to approve the petty things, or is it to be
11 sort of the grand architect for the City?

12 MR. SIEMON: No, no, it's not to be the
13 Grand Poobah of City design. It is to serve in the
14 development review process, to bring the training and
15 experience of the design professional to a process
16 that right now examines urban -- the design issues,
17 but does it without any professional portfolio. It's
18 to fill that gap, this is really designed to do.

19 I do want to point out, though -- I don't
20 want to be a Pollyanna on this. One of the negatives
21 we've identified is that this design professional has
22 got to be good, and if you can't find a good person,
23 I mean, a good, talented person, it would not just be
24 another hire, and that, we recognize, is a challenge,
25 and we believe the appropriate course is to put the

1 administration to the task of finding the appropriate
2 and qualified person.

3 I will tell you that we've had a lot of
4 positive success with a design professional on staff
5 who's able to facilitate for the design community.
6 They speak a different language, they understand
7 things, and it does improve the overall efficiency
8 and eliminates a lot of misunderstandings. When you
9 talk to a zoning administrator or a planner --

10 (Thereupon, Mr. Steffens left the
11 Commission Chambers.)

12 MR. SIEMON: -- there can be
13 misunderstandings about things. There's just a
14 different vocabulary.

15 MR. MAYVILLE: What other cities are doing
16 this down here, in the three counties?

17 MR. SIEMON: In the three-county area? West
18 Palm Beach has had a design professional. Boca has a
19 design professional. I can't tell you about Fort
20 Lauderdale today. They did have, when I was working
21 on Fort Lauderdale Beach. There was a staff design
22 professional. I don't know the Dade County staff
23 well enough --

24 MR. PARDO: Fort Lauderdale doesn't.

25 MR. SIEMON: I don't think Fort Lauderdale.

1 I don't know that they do today. They did, at one
2 point, but my most recent experience in front of the
3 CRA would tell me they don't.

4 MR. PARDO: You know, Charlie, we had a
5 City Architect here. His name was Subrato Basu, and
6 he worked out of -- under Public Works, but he was --

7 MR. SIEMON: He was doing design work for
8 the City.

9 MR. PARDO: -- fantastic. He was just
10 incredible. But he also was brought in and was able
11 to do a lot of things, and things like this, and he
12 would have been more than qualified to do it, and he
13 was an existing Staff member.

14 In this position that you're creating, what
15 about additions, residential additions? Does that
16 still go to the Board of Architects?

17 MR. SIEMON: Well, that line, what is a
18 standard item and what is not, is still being worked
19 out. We're relying upon Dennis Smith to provide us
20 with at least a starting roster of things that are
21 appropriate for delegation. Obviously, that will go
22 to the Board of Architects to find out, to get their
23 advice as to whether those things are in or out. We
24 think that's something that, over time, ought to be a
25 book of standards that expands over time, you know,

1 and after three years of approving the same kind of
2 rails on a fence or something, you could add that to
3 the Staff review.

4 MR. PARDO: I don't have a problem with
5 this at all, except two things, like what Bill said,
6 you know, the City doesn't have any money, and -- but
7 the second thing is just the qualifications, that
8 this person be an architect and that understands
9 Coral Gables.

10 MR. SIEMON: We think that's a good point,
11 Board Member, and we will add -- I will address that
12 subject.

13 MR. PARDO: Thank you.

14 MR. SIEMON: I think that we will -- I would
15 not put the residential limitations and the time in
16 gray in there, because I think this is a different
17 kind of position. The Board of Architects really is
18 the -- they speak for this community. This is really
19 going to be a Staff professional. But we will add --
20 we will add that. I think that's a good idea, to put
21 the design -- the requirements.

22 CHAIRWOMAN MORENO: Okay.

23 MR. KORGE: Are we going to bring that back
24 when you have --

25 MR. SIEMON: That will be in a text. That

1 will come in, in the text that would probably be in
2 the proposed. There are a lot of things you all have
3 told us to do, and they're going to show up in the
4 proposed draft.

5 CHAIRWOMAN MORENO: Okay, so what we're
6 proposing now --

7 MR. SIEMON: But next time you see this
8 thing, it will be written in here.

9 (Thereupon, Mr. Steffens rejoined the
10 Board.)

11 MR. KORGE: Do we -- Do we -- What I'm
12 trying to ask you is, if we vote on this now, we're
13 not adopting the criteria you set, since you haven't
14 set any yet?

15 MR. SIEMON: No, I haven't brought that to
16 you.

17 CHAIRWOMAN MORENO: No, what you're going
18 to --

19 MR. KORGE: Do you want us to vote on this
20 now --

21 MR. SIEMON: Yes.

22 MR. KORGE: -- or do you want us to wait
23 until you have the criteria?

24 CHAIRWOMAN MORENO: No, what you would make
25 a motion on is to say, "We approve the creation of a

1 City Architect, subject to our approving the criteria
2 for -- "

3 (Simultaneous inaudible comments between
4 Board members)

5 MR. SIEMON: Preparation of appropriate
6 criteria.

7 MR. KORGE: I move that we approve the
8 creation of a position of City Architect, subject to
9 criteria which will be approved by us, as well.

10 CHAIRWOMAN MORENO: Okay. Do we have a
11 second?

12 MR. STEFFENS: Say that again, Tom?

13 MR. PARDO: Second.

14 MR. KORGE: I'm moving to create the
15 position of the City Architect --

16 MR. STEFFENS: I'm trying to plan my future
17 job here.

18 MR. KORGE: -- subject to our subsequent
19 approval of the minimum qualifications for a person
20 meeting that job.

21 MR. STEFFENS: For some minimum
22 qualifications that we will establish.

23 MR. KORGE: That we will establish.

24 CHAIRWOMAN MORENO: Mr. Siemon will
25 recommend to us and we will vote on it.

1 MR. STEFFENS: I will second that.

2 CHAIRWOMAN MORENO: Call the vote, please.

3 MS. MENENDEZ-DURAN: Tom Korge?

4 MR. KORGE: Yes.

5 MS. MENENDEZ-DURAN: Bill Mayville?

6 MR. MAYVILLE: Yeah, and I just think the

7 Commission needs to take a look at that cost-benefit,

8 on that, but that's --

9 MS. MENENDEZ-DURAN: Felix Pardo?

10 MR. PARDO: Yes.

11 MS. MENENDEZ-DURAN: Michael Steffens?

12 MR. STEFFENS: It might be a conflict of

13 interest if I vote for this. Yes.

14 MS. MENENDEZ-DURAN: Tony Gonzalez?

15 MR. GONZALEZ: Yes.

16 MS. MENENDEZ-DURAN: Cristina Moreno?

17 CHAIRWOMAN MORENO: Yes.

18 (Simultaneous inaudible comments between

19 Board members.)

20 CHAIRWOMAN MORENO: Okay, Development Review

21 Official.

22 MR. SIEMON: The Development Review Official

23 is not a new position, but one of the things that we

24 discovered in your Code, who issues the approval for

25 X, you know, there's a lot of ambiguity about who it

1 is, and there are various names, et cetera. We've
2 recommended in this Code that it be that the City
3 Manager designate one or more people as a DRO, as the
4 Development Review Official, and that they be
5 responsible for issuing all approvals, so that we
6 know who the person is that's doing it, there's a
7 standardized process, and we'll recognize the minimum
8 standards, to try to introduce some more consistency
9 and predictability in the form of issuing these
10 approvals.

11 It's not a separate person. We feel very
12 comfortable with this. It got on the policy list
13 just because there's always some turf involved in who
14 has or perceives that they have certain authority,
15 and so we put it on. We don't think it's a
16 significant change. We think it just will improve
17 the predictability and defensibility of the
18 administration.

19 MR. PARDO: Why don't you just have the City
20 Architect -- that be part of their job description?

21 MR. SIEMON: Well, we thought about that,
22 but we think that there are other matters that are
23 primarily planning items or zoning items, and so we
24 ultimately think delegating that to the Manager -- it
25 could be the City Architect. It could be.

1 MR. PARDO: Because the architect --

2 CHAIRWOMAN MORENO: But the Manager would
3 say, "For these types of issues, the DRO is the
4 Planning Director."

5 MR. SIEMON: Right.

6 CHAIRWOMAN MORENO: "For these types of
7 issues, the DRO is the Building Director," and, "For
8 these types of issues, the DRO is the City
9 Architect."

10 MR. SIEMON: Precisely.

11 MR. RIEL: We're also looking at it in
12 terms of streamlining it, to have different persons
13 do that. It's not just specifically one person, the
14 City Architect, and that's the only person who can
15 sign off on these plans. We're trying to streamline
16 the review process.

17 MR. KORGE: I'd like to short-circuit this,
18 since I don't think there's going to be any
19 objection to it, and move to adopt that
20 recommendation, that the Manager have the authority
21 to designate one or more persons as the Development
22 Review Official under the Code, making approvals that
23 are required under the Code.

24 MR. STEFFENS: Second.

25 CHAIRWOMAN MORENO: Call the vote, please.

1 MS. MENENDEZ-DURAN: Bill Mayville?
2 MR. MAYVILLE: Yes.
3 MS. MENENDEZ-DURAN: Felix Pardo?
4 MR. PARDO: Yes.
5 MS. MENENDEZ-DURAN: Michael Steffens?
6 MR. STEFFENS: Yes.
7 MS. MENENDEZ-DURAN: Tony Gonzalez?
8 MR. GONZALEZ: Yes.
9 MS. MENENDEZ-DURAN: Tom Korge?
10 MR. KORGE: Yes.
11 MS. MENENDEZ-DURAN: Cristina Moreno?
12 CHAIRWOMAN MORENO: Yes.
13 Minor conditional uses.
14 MR. SIEMON: Under the existing Code, there
15 are a variety of processes for getting various
16 approvals, and they include variances and special
17 exceptions and applications for zoning designations
18 of overlays and site plans and all those sorts of
19 things, and they have a whole variety of procedural
20 requirements, most of which are inconsistent with
21 each other, et cetera.
22 What we've suggested, where there is
23 discretion to be exercised under the Code, that all
24 of those approvals except for variances be
25 consolidated into a minor conditional use and to a

1 major conditional use, and the minor conditional use
2 would be a professional Staff approval, subject to an
3 appellate review by this body in the event that there
4 is disagreement of it. And for major conditional
5 uses, recommendation by Staff and a determination by
6 this Board, and there has been some consideration
7 about whether there should be further review of that
8 by the Commission or not.

9 We like to see the Planning & Zoning Board
10 have final authority for a major conditional use,
11 because we think having that responsibility promotes
12 better quality decisions and makes it more serious.
13 People who know they're only advisory or that
14 somebody else is going to make, you know, the final
15 choice, have a tendency not to step up and make the
16 hard decisions.

17 We're also trying to improve the process.
18 We're trying to say to the community that's out
19 there, "As you come through the process, we want to
20 get you out of the pipeline as quickly as we're
21 comfortable that you've done what we want you to do,"
22 and so that's why we push processes down, if we can
23 to the Staff, down to the lay decision-making body,
24 and then finally only go to the Commission for those
25 major events.

1 That's the concept that we have presented,
2 but we recognize that there are all kinds of
3 responsibility and balances and accountability
4 issues, so we anticipated that with regard to the
5 Staff and included in the text an appellate process,
6 and if there's a desire for an appellate process to
7 the Commission, we would understand that. We would
8 encourage that it not be as matter of right, that
9 there be some sort of screening process, so that the
10 dignity of your decisions has some weight.

11 MR. KORGE: Well, let me ask a question
12 that's probably a really dumb question, but I'm going
13 to ask it, anyway. What is the difference between a
14 conditional use and a variance?

15 MR. SIEMON: A variance, under the law, is a
16 circumstance under which you can grant relief from
17 the strict application of the regulations because you
18 can demonstrate a hardship, an extraordinary
19 hardship, and it has -- that's what the law says, and
20 when someone goes to court, that's the outcome.

21 But in reality, because most zoning courts
22 are rigid and because there isn't a good, flexible
23 review process for granting deviations from the Code,
24 most probably -- We've just completed a study for the
25 Town of Palm Beach of their variances, and we judged

1 by the legal standard that of four hundred and -- I
2 don't know whether it was 83 variances, only nine of
3 them met the legal standard, and what the Board of
4 Adjustment was doing was trying to make a set of
5 rules, that are relatively old, fit into a developed
6 community that's trying to rehab and protect and
7 reinvent itself, and the problem is that if an
8 objecting neighbor wishes to take on one of those
9 variances, I mean, it's a fiction. The existence of
10 the hardship is always a fiction and it's a con.

11 We prefer a discretionary process that goes
12 to the planning side and is reviewed by the Planning
13 & Zoning Board for those exercises of discretion,
14 because we're talking primarily about use and
15 community character and intensity of use, and we
16 think those things are much more appropriate before a
17 Planning & Zoning Board, who has their due diligence
18 grounded in the Comprehensive Plan, than in a Zoning
19 Board of Adjustment, which is just hearing what's
20 supposed to be a fairly narrow issue, and while
21 nobody seems to have challenged the variance process
22 here in Coral Gables, there is an increasing set of
23 conflicts that are emerging from variance decisions
24 all around South Florida because of how it's been
25 used historically. So that's what we're

1 recommending.

2 MR. KORGE: So let me run through some
3 examples --

4 MR. SIEMON: Okay.

5 MR. KORGE: -- from experience. You want to
6 build a patio, you know, outside of the setback
7 requirements. That would require, under the current
8 regulations, a variance from the Board of Architects.

9 MR. SIEMON: Under your current Code, you'd
10 have to obtain a variance, and the standard for that
11 was that you have an economic hardship.

12 MR. KORGE: Right.

13 MR. STEFFENS: A variance from the Board of
14 Adjustment.

15 MR. KORGE: I'm sorry, did I say the Board
16 of Architects? I meant the Board of Adjustment.

17 MR. SIEMON: Board of Adjustment.

18 MR. PARDO: I'm sorry, an economic hardship?

19 MR. SIEMON: Yes.

20 MR. PARDO: I don't understand.

21 MR. KORGE: Well, it's some sort of a
22 hardship. In any event, going forward, if we made --
23 that would then become a minor conditional use?

24 MR. SIEMON: I believe --

25 MR. KORGE: A major conditional use?

1 MR. SIEMON: -- with some modest
2 deviations, adjustments, for example, if it's a
3 violation of the side yard setback, replacement with
4 a Class A buffer, for example, and reducing the
5 setback by five feet --

6 MR. KORGE: Right.

7 MR. SIEMON: -- would be a minor conditional
8 use.

9 MR. KORGE: How would you decide when it's a
10 minor conditional use, as opposed to a variance
11 requiring -- a variance requiring approval by the
12 Board of Adjustment?

13 MR. SIEMON: Well, the Code will specify
14 what is permitted as a minor conditional use, either
15 as use or intensity of use or because of the
16 characteristic of the use. Those things will be
17 identified.

18 If you want a deviation from the underlying
19 standard and it doesn't fit into those categories,
20 then your only other option would be to go for the
21 hardship, through relief from the Board of
22 Adjustment.

23 MR. KORGE: So with minor changes, like,
24 you know, a two-foot intrusion into the side setback
25 with appropriate buffer or whatever, that would most

1 likely -- under that scenario, that would go to the
2 Staff, and they would approve or disapprove.

3 If it was, you know, a structure that was
4 going to extend a house or building --

5 MR. SIEMON: Let's say it's a tennis court,
6 just to bring something --

7 MR. KORGE: Well --

8 CHAIRWOMAN MORENO: That would be a major
9 conditional.

10 MR. SIEMON: That would be a major. If --
11 That would be -- I don't think we've said that it is
12 in this draft.

13 MR. KORGE: Well, I'd rather not discuss
14 tennis courts, because that's a separate issue.

15 MR. SIEMON: But -- but -- okay, I'll pick
16 something else, a swimming pool.

17 CHAIRWOMAN MORENO: You're going to lay
18 out -- You're going to lay out in the Code --

19 MR. SIEMON: Right.

20 CHAIRWOMAN MORENO: -- those things that are
21 major conditional uses and those things that are
22 minor conditional uses, and if they don't fit within
23 those categories, it's a variance.

24 MR. SIEMON: Right, and there will be
25 processes and criteria.

1 MR. KORGE: Right.

2 MR. PARDO: Charlie, you're not eliminating
3 the Board of Adjustment?

4 MR. SIEMON: I am not.

5 MR. KORGE: No.

6 CHAIRWOMAN MORENO: No.

7 MR. SIEMON: But we're proposing that its
8 jurisdiction really be --

9 MR. MAYVILLE: Curtailed?

10 MR. SIEMON: -- curtailed to interpretations
11 and actual hardships.

12 MR. MAYVILLE: The problem -- and I agree a
13 hundred percent with what you said, but that's
14 Staff-driven. That's not Board-driven.

15 MR. PARDO: I'm sorry, what did you say?

16 MR. MAYVILLE: That's Staff-driven. He
17 talked about 80 some odd variances and only found
18 nine. That Board moves based upon Staff
19 recommendations, and that Board is used a lot to
20 address problems that can't be addressed anywhere
21 else. So, I mean, that's the history of it, but --

22 MR. SIEMON: I don't mean to, in any way,
23 criticize the Board of Adjustment.

24 MR. MAYVILLE: No, but --

25 MR. SIEMON: That's the only device which is

1 available, and we think you're still going to need
2 that device.

3 MR. MAYVILLE: Who's going to make the
4 decision of whether it's minor or major or a
5 variance?

6 MR. SIEMON: You will. You're going to
7 adopt that in this Code.

8 CHAIRWOMAN MORENO: In the Code. It will be
9 set out in the Code. If it's not set out as a major
10 or a minor, it's a variance.

11 MR. PARDO: What is the greatest minor
12 conditional use that you can think of, Charlie?

13 MR. SIEMON: In the CL district, an office
14 building of greater than 10,000 square feet is a
15 minor conditional use. We don't think it's yet so
16 big that it necessarily is going to have an adverse
17 impact on adjacent properties, but we think it ought
18 to go to a review process and analysis, discretionary
19 review, to find out whether the buffer yards and the
20 access points, et cetera --

21 MR. PARDO: And that could be basically
22 approved by Staff?

23 MR. SIEMON: That, the one I've just
24 described. Right now, you can just get a building
25 permit.

1 MR. PARDO: Wow.

2 MR. KORGE: I'm going to make a motion.

3 Structurally, this sounds okay, but it's got to be
4 subject to our review and approval of all the uses
5 that would be classified --

6 MR. SIEMON: You're going to get three
7 buckets.

8 MR. PARDO: Tom, you lost me on this, and
9 I'll tell you why. Charlie has proposed to us, as
10 the consultant -- for example, I asked him what the
11 highest threshold of the minor conditional use, where
12 this just goes to Staff. He says the approval of a
13 10,000 square foot --

14 MR. KORGE: Felix, I don't think you heard
15 everything I said.

16 MR. PARDO: Okay, I'm sorry. I'm very
17 tired.

18 MR. KORGE: I understand. I agree with the
19 structure of major -- minor, major and variance.

20 MR. PARDO: Okay, the concept.

21 MR. KORGE: The structure, the concept.
22 What would constitute minor and major conditional
23 uses that go through those reviews has not been
24 specified here at all, and I assume it hasn't,
25 because you don't want us to rule on that at this

1 time.

2 MR. SIEMON: The policy issue that we
3 presented is the consolidation of these various
4 reviews into this process, this organized and we
5 think simplified and improved process. That's all.
6 And think of it this way --

7 MR. KORGE: So let me --

8 MR. SIEMON: When you get this Code, you're
9 going to see what we recommend, and we're going to
10 recommend things in the minor conditional bucket, in
11 the major conditional bucket, and then what's left
12 over, in adjustments. And you're going to tell us,
13 "No, take this out of the minor and put it in the
14 major."

15 MR. PARDO: Charlie, and then you'll tell us
16 who the Staff people that are going to rule on this,
17 right?

18 MR. SIEMON: Yes. It's set out --

19 MR. PARDO: A committee or --

20 MR. SIEMON: It's set out explicitly in the
21 Code.

22 MR. MAYVILLE: My big concern is abuse,
23 because to me, this opens up to political abuse,
24 particularly at a senior level of Staff. Right now,
25 you have a couple layers of review. For example, any

1 variance has to go -- Staff can't make that decision.

2 It goes through the Board of Adjustment, and it can
3 be appealed to the City Commission.

4 Here, you've got situations where -- we're
5 not even talking about public hearings. We're
6 talking about these things being approved by Staff
7 without any public -- you know, without any
8 oversight.

9 MR. STEFFENS: But, Bill, he's not talking
10 about things that would be a variance, anyway. He's
11 talking about things that are as-of-right now, making
12 them minor conditional uses that have to go through
13 additional steps of review.

14 MR. MAYVILLE: That's not my understanding.
15 It was --

16 MR. SIEMON: I can't tell you that every
17 single one is currently permitted as of right. Some
18 of them -- Right now your Staff has all --

19 MR. STEFFENS: Yeah, but the ones that
20 you're talking about becoming minor conditional uses
21 aren't variance items.

22 MR. SIEMON: Yeah, they're relatively minor
23 matters, and they're based district by district.
24 They're not uniform across the City.

25 MR. STEFFENS: And we're going to look at

1 all of the --

2 MR. SIEMON: And they reflect -- most of
3 them, I believe, are approvals that are currently
4 either one of two categories, either approvals
5 currently granted by your Staff, either as a matter
6 of right or with a very modest amount of discretion,
7 or they are uses that are currently just permitted as
8 of right, and we've suggested, because of the
9 possibility -- For example, in the CL district, you
10 don't need approval for the office as long as you
11 don't exceed the FAR. You don't have a discretionary
12 approval. We think it should be subject to it, in
13 this draft, and if it should be 5,000 feet -- We came
14 up with 10,000 feet based on the model of the sample
15 lots in South Ponce, and tried to figure out and we
16 felt comfortable with 10,000.

17 If, ultimately -- One of two things happen.
18 If you think five or ten thousand is too much, then
19 we should change it to five. Don't throw the baby
20 out with the bathwater. And then if five turns
21 out -- or 10,000 is adopted and turns out not to
22 work, these codes are a work in progress. Then
23 adjust the number to make sure that it gets the level
24 of review you want.

25 But part of this is to make sure we give

1 enough review to everything, but no more review than
2 is necessary to protect the community and the
3 neighbors.

4 MR. MAYVILLE: I think it's --

5 CHAIRWOMAN MORENO: Okay, so what we're
6 voting on is the concept --

7 MR. SIEMON: That's all.

8 CHAIRWOMAN MORENO: -- not what constitutes
9 minor or major. We'll vote on that later.

10 MR. MAYVILLE: No, I know that, but my
11 question is, on the minor one, after Staff reviews,
12 how does the appellate process work?

13 MR. SIEMON: The current way it's drafted,
14 and I'm going to have to plead -- I'm with Felix, my
15 brain fatigue is now -- I can't remember the notice
16 provisions, whether notice is given when the
17 application is filed to the adjacent property owners
18 or it's given when the approval is granted. One way
19 or another, there's a notice, and they have a period
20 of time in which to interpose an appeal with the City
21 Clerk, that then would be presented to this Board.

22 MR. MAYVILLE: So everything --

23 MR. SIEMON: So they're going to get notice
24 that this approval has been granted, and I can't
25 frankly remember --

1 MR. RIEL: I can't, either.

2 MR. SIEMON: -- whether we put it before the
3 process or after the process.

4 CHAIRWOMAN MORENO: Okay. All right, let's
5 hear a motion on it.

6 MR. MAYVILLE: You don't think that's a big
7 issue?

8 CHAIRWOMAN MORENO: No.

9 MR. KORGE: Well, I think what I'm going to
10 suggest is that we'll approve this conceptually.
11 He'll draft it up for us. He'll give us the
12 specifics, including the uses that would fit within
13 minor or major conditional uses or variances, and
14 then, when we have the whole thing before us, we can
15 consider at that time whether we want to move the
16 process here or there.

17 CHAIRWOMAN MORENO: Or whether you want the
18 notice before or after.

19 MR. KORGE: Yeah.

20 CHAIRWOMAN MORENO: It's just this concept
21 of minor, minor and variances.

22 MR. KORGE: They want to know whether we --

23 CHAIRWOMAN MORENO: The technique will come
24 in the next review.

25 MR. PARDO: But when you look at the minor

1 and major conditional uses, right now, I know what
2 you're talking about, but it's still so conceptual
3 that because there aren't any thresholds, there's no
4 yardstick, I don't know if we're talking about light
5 years or if we're talking about centimeters.

6 MR. KORGE: Well, we're not going to find
7 out until you --

8 CHAIRWOMAN MORENO: You'll know -- you're
9 not going to find out until you approve what is a
10 minor or major. If you don't approve it as a minor,
11 it will continue to be a variance.

12 MR. PARDO: Okay, but one of the things
13 that's already in here, in the minor/major, for
14 example, I totally disagree that this Board should
15 have final say, like the Board of Adjustment does
16 with variances, on these issues on major. I think
17 the format that we have right now, where it goes as a
18 recommendation to the Commission, is the correct way
19 for major.

20 MR. MAYVILLE: You've got a quasi-judicial
21 board, where this is a recommending board.

22 MR. STEFFENS: But we don't know what's in
23 the major category.

24 MR. MAYVILLE: No, no, but regardless of
25 whether it is or not, this Board right now is not an

1 approving authority. It's not a judicial board.

2 MR. STEFFENS: So, then, when we see the
3 list of things in the major conditional uses, if they
4 don't belong there, we'll take them out and put them
5 back into the variance column.

6 MR. KORGE: Let me make a suggestion. We
7 want to move this forward. What I'm going to
8 suggest -- Just listen to me. I'm going to suggest
9 that we approve this for our consideration. We need
10 to see the actual details.

11 Approving this does not mean that final
12 review is stopping with us. All we're doing is
13 saying, "Give us the draft of what, you know,
14 specifically we're going to ultimately approve," you
15 know, before we ask them to spend the time and do all
16 the research and whatever they're going to give us,
17 all the details. They want to know that conceptually
18 we accept the idea that this would make sense.

19 MR. MAYVILLE: And my concern is that right
20 now you have clear lines of judicial, legislative and
21 executive. You don't have that with this. You're
22 combining the legislative and the judicial together.
23 This Board acts as a legislative body. The Board of
24 Adjustment is strictly judicial, can't make policy,
25 can't make --

1 MR. KORGE: I think we act as a
2 quasi-judicial body, too.

3 CHAIRWOMAN MORENO: We act as a
4 quasi-judicial, yes.

5 MR. KORGE: We do.

6 CHAIRWOMAN MORENO: Absolutely.

7 MR. KORGE: Yeah. We're not just
8 legislative.

9 MR. MAYVILLE: On what cases? On what kind
10 of cases do we act as --

11 CHAIRWOMAN MORENO: When we approve
12 projects.

13 MR. MAYVILLE: Pardon me?

14 CHAIRWOMAN MORENO: When we approve
15 projects. That's why you can't discuss them with
16 people outside the -- That's quasi-judicial.

17 MR. KORGE: I mean, those are legitimate
18 questions. We're not going to resolve --

19 MR. MAYVILLE: If we're all saying in a
20 conceptual way, then I don't have a problem with it,
21 you know --

22 MR. KORGE: Yeah.

23 MR. MAYVILLE: -- if you want to just move
24 that we're looking for a plan, but to say -- I think
25 we're a little -- we're a good ways away from being a

1 final product.

2 MR. KORGE: Oh, yeah. I mean, I don't even
3 know what those uses are. Until we know that, I'm
4 not going to approve, you know, the 10,000-square-
5 foot building, not knowing what's in there, you know.

6 So what I'd like to move is that we accept,
7 conceptually, the concept of having a consolidated
8 group of minor conditional uses, the major
9 conditional uses, and that you bring us a specific
10 proposal so we can --

11 MR. RIEL: Subject to further review of
12 those uses in the minor and major categories.

13 MR. KORGE: Right.

14 CHAIRWOMAN MORENO: Right.

15 MR. KORGE: And also, subject to review of
16 the appellate process, as well, which is still --

17 MR. RIEL: Including processes.

18 MR. PARDO: Does that also mean that we're
19 not agreeing, in any way, shape or form, for example,
20 on the major conditional use, that this Board becomes
21 the final say?

22 MR. KORGE: Yes. That's what we're --

23 MR. PARDO: I just want to make sure.

24 MR. KORGE: Yeah, it's subject to review --

25 MR. PARDO: Because I don't want something

1 reported to the Commission, that we said, "Hey, this
2 is right," or, "This is wrong."

3 MR. KORGE: No, we haven't decided that yet.
4 I'm not even sure I understand how the appellate
5 process works, so until we get -- for me, I'm
6 speaking just for myself, I don't want to approve
7 something before I understand how it actually would
8 work.

9 MR. PARDO: Why are we approving it,
10 instead of making a motion that we understand it and
11 that we want more information?

12 MR. KORGE: Well, I think that's what it is.

13 MR. MAYVILLE: That's exactly --

14 MR. KORGE: We're approving --

15 MR. MAYVILLE: That's not a problem.

16 CHAIRWOMAN MORENO: We're approving the
17 concept.

18 MR. KORGE: We're approving the conceptual
19 idea of minor/major use.

20 MR. PARDO: Okay, the concept.

21 MR. KORGE: That's it.

22 MR. PARDO: Cristina said the concept.

23 MR. KORGE: And subject to the -- subject to
24 the detailed explanation of the uses that would fit
25 within each category, and also subject to whatever

1 decision we might want to make in terms of initial
2 and appellate reviews.

3 CHAIRWOMAN MORENO: How does the Commission
4 feel about eliminating them from the process? Do you
5 know?

6 MR. RIEL: We haven't broached that idea
7 with them yet.

8 MR. PARDO: I'm sorry? What did you say?

9 CHAIRWOMAN MORENO: How does the Commission
10 feel about --

11 MR. PARDO: No, what did Eric say?

12 MR. RIEL: I said, we haven't broached that
13 idea with all the Commissioners at this point.

14 MR. STEFFENS: Okay.

15 MR. PARDO: How does this Board feel about
16 that?

17 MR. SIEMON: Actually, I think I should
18 correct the record here. We actually have provided
19 for an appeal to the Commission.

20 CHAIRWOMAN MORENO: An appeal to the
21 Commission?

22 MR. SIEMON: Yeah. It's an appeal. You
23 would make the determination, and if it was not
24 objected to by a party in the proceedings, it would
25 then become final.

1 MR. PARDO: Charlie, so you know, a lot of
2 people in this community don't like that the Board of
3 Adjustment has final say, and they think that it
4 should be a recommendation that goes to the
5 Commission for all variances in the City.

6 MR. SIEMON: I do understand that. I think,
7 in part, one of the things we've observed in trying
8 to understand why people are dissatisfied, one of the
9 problems with the Board of Adjustment is that many of
10 the things they decide don't technically follow the
11 specific language of the Code, but yet the decision
12 is approved, and that aggravates people and they feel
13 they have no relief.

14 We think, our experience would be, that
15 we're going to improve all that by making the rules
16 more clear, and that frankly, our experience is that
17 giving -- as I said earlier, giving planning and
18 zoning boards final authority, subject to an appeal,
19 improves the quality of the process, all around,
20 and --

21 CHAIRWOMAN MORENO: Well, to me, that's up
22 to the Commission.

23 MR. SIEMON: But it's a Commission decision.

24 CHAIRWOMAN MORENO: Yeah. I mean, if --

25 MR. SIEMON: They're going to adopt the

1 Code.

2 CHAIRWOMAN MORENO: If they --

3 MR. SIEMON: They know what we're
4 recommending.

5 CHAIRWOMAN MORENO: If they want us to be a
6 recommending board, that's up to them. They're the
7 elected people.

8 MR. STEFFENS: Did you make a motion, Tom?

9 MR. KORGE: Yeah, I did.

10 MR. STEFFENS: Does it need a second?

11 MR. KORGE: Yeah, that would need a second.

12 MR. STEFFENS: What's the motion?

13 MR. KORGE: The motion, again, is that we
14 approve the conceptual concept -- the concept of
15 minor conditional uses and major conditional uses,
16 subject to our review of the various uses that would
17 be categorized within those classifications, and also
18 subject to our final review of the appellate process
19 that would -- the review and appellate process that
20 would be applied in those conditional uses.

21 CHAIRWOMAN MORENO: Okay. Do I have a
22 second?

23 MR. STEFFENS: You still have a second.

24 CHAIRWOMAN MORENO: Okay, vote?

25 MS. MENENDEZ-DURAN: Felix Pardo?

1 MR. PARDO: Yes.

2 MS. MENENDEZ-DURAN: Michael Steffens?

3 MR. STEFFENS: Yes.

4 MS. MENENDEZ-DURAN: Tony Gonzalez?

5 MR. GONZALEZ: Yes.

6 MS. MENENDEZ-DURAN: Tom Korge?

7 MR. KORGE: Yes.

8 MS. MENENDEZ-DURAN: Bill Mayville?

9 MR. MAYVILLE: Yes.

10 MS. MENENDEZ-DURAN: Cristina Moreno?

11 CHAIRWOMAN MORENO: Yes.

12 The last one is the Board of Architects.

13 MR. SIEMON: We have recommended that the --

14 two things, that we establish more formal procedures,

15 including quasi-judicial roles for the Board of

16 Architects --

17 (Thereupon, Felix Pardo left the Commission

18 Chambers.)

19 MR. SIEMON: -- and that we provide for

20 delegation of routine matters to the professional

21 Staff, and those routine matters I've previously

22 described. They're things that they've been

23 granting, it's been the same outcome, going to the

24 Board, for years, and just to spare them going

25 through that and then reserve their time for the

1 formal process.

2 We do not intend to in any way imply that
3 the deliberations of the Board of Architects have
4 produced undesirable outcomes, but the fact of the
5 matter is, the law requires, where an exercise of
6 discretion involving individual interests involves
7 the application of existing laws rather than the
8 choice of what law -- what the law should be, that
9 those, under Florida law, are quasi-judicial
10 proceedings, and should a decision of the Board of
11 Adjustment -- I mean, the Board of Architects, be
12 challenged, we believe, on the basis of your existing
13 procedures, it could not be sustained.

14 Now, the rules don't have to make it into a
15 strict trial. The rules can be one of reason and
16 fair -- fairness, but it would require elimination of
17 ex-parte communications, for example.

18 We understand that this is a change. We
19 understand that it won't be well received by the
20 individuals who have served, and served the community
21 well. But when we were asked our opinion to address
22 the implications of Omnipoint, when it existed, and
23 what we know will be -- Omnipoint is going to come
24 back. You know, it was overturned on a
25 jurisdictional basis, not on a substantive basis. We

1 have not been able to figure out any way to give the
2 Board of Architects the ability to continue to do
3 that except to take away from them the decision-
4 making authority and put it in someone else's hands
5 that would hold a formal proceeding. That would be
6 the Commission, and we don't think that serves
7 anybody's interest, because we really think that
8 needs the deliberative efforts of a Board of
9 Architects.

10 MR. KORGE: So let me see if I understand
11 this. The Board of Architects -- we've already
12 agreed that the minor, day-to-day type decisions will
13 no longer be burdening the Board of Architects. So
14 the only decisions they'll be concerned about are
15 major decisions that you believe, as a matter of law,
16 require a formalized quasi-judicial proceeding.

17 CHAIRWOMAN MORENO: Correct.

18 MR. SIEMON: That's correct.

19 MR. KORGE: So all we're doing here --

20 CHAIRWOMAN MORENO: That would include, for
21 example, the award of a Mediterranean bonus.

22 MR. SIEMON: That's correct.

23 MR. KORGE: And so you're recommending those
24 formalized procedures required as a matter of law.

25 MR. SIEMON: That's my opinion.

1 MR. KORGE: And is it fair to say that the
2 City Attorney -- the City Attorney understands this
3 and agrees with you?

4 MR. SIEMON: Yes, sir.

5 MR. PARDO: And so someone building an
6 addition, it's a quasi-judicial process?

7 MR. SIEMON: The -- it -- it -- it -- yes.

8 MR. PARDO: So they have to hire an attorney
9 to represent them and --

10 MR. SIEMON: No.

11 CHAIRWOMAN MORENO: No.

12 MR. KORGE: No.

13 MR. STEFFENS: An architect.

14 CHAIRWOMAN MORENO: We do quasi-judicial all
15 the time. People come here before us.

16 MR. STEFFENS: You would have to have an
17 architect, because only architects can appear before
18 the Board of Architects.

19 MR. PARDO: Cristina, why did --

20 MR. KORGE: Why don't you explain to all of
21 us what quasi-judicial means and why that exists, why
22 that requirement exists, procedural requirement
23 exists.

24 MR. SIEMON: Several years ago, the Florida
25 Supreme Court was confronted with what is -- and I'm

1 sorry, this is going to take a little bit longer than
2 you want, but it's worth repeating.

3 Originally, when zoning emerged, there were
4 what was called holding-zone zoning. It was -- lands
5 were given classifications, like general use and
6 other things. When you wanted to develop an
7 individual piece of property, you came in and applied
8 for a rezoning, "I would like to get the CC district
9 applied to my property here."

10 And when that was first challenged, the
11 Supreme Court of the United States determined that
12 that was an exercise of legislative function and
13 therefore was entitled to almost absolute deference
14 by the courts, that when they make the law, the
15 courts don't intervene unless it clearly tramples
16 some constitutional provision.

17 Well, that, in the early days of zoning, was
18 not a problematic matter. In the post-war period, as
19 planning and zoning really began to become more
20 active and far more intrusive into a private property
21 owner's ability to deal with property, the courts
22 became more concerned about that absolute deference,
23 and a doctrine emerged that said, it's a fiction to
24 say that when they grant zoning to a particular
25 parcel of land, they're making general policy. What

1 they're doing is giving privileges to an individual.
2 And in the law, when you give privileges to an
3 individual, they're entitled to certain things,
4 notice and opportunity to be heard and that the
5 proceedings be fundamentally fair. That meant that
6 the record -- there was a record and it was based on
7 the merits. And that's been in the body of law for a
8 long time.

9 Starting in 1972, Supreme Courts, State
10 Supreme Courts around the country, began applying
11 that dichotomy to zoning, and what were previously
12 legislative acts were now being treated as
13 quasi-legislative or quasi-judicial, and what they
14 really said is, "You've got to have these basic rules
15 of fairness and you've got to make the decision based
16 on merits," and in some states they've got to be on
17 the basis of enumerated standards, so that when a
18 court of competent jurisdiction looks over the
19 shoulder of a body that makes a decision, there's
20 some standards by which we can judge, were they
21 treated fairly and are they likely to be -- and been
22 treated consistently, and whether the decision-maker
23 was the legislative body or a planning and zoning
24 board, they were held to that same standard.

25 Florida was one of the last states to come

1 into that area. Boards of adjustment have been
2 quasi-judicial since the out -- since they started,
3 but in -- and I forget my years now, but about a
4 decade ago, in a case called Snyder versus Brevard
5 County, the Fifth District Court of Appeal said,
6 "Enough's enough. When individual rights on
7 individual parcels are being affected by exercises of
8 the police power, it's not a legislative act, it's a
9 quasi-judicial act."

10 I actually argued, in an amicus brief,
11 against that determination of quasi-judicial, because
12 I believe what local governments do is much more like
13 what the Oregon court called it, which is quasi-
14 legislative. And so the result is, the decision is
15 not -- in Oregon, doesn't require what I would regard
16 as significant procedural safeguards. It's just that
17 the decision is not entitled to that absolute
18 presumption of correctness, so that there is
19 a de novo investigation at the appellate -- at the
20 court level, and that if the property owner shows
21 a -- carries the burden of proof, the burden shifts
22 to the government to rebut that.

23 In Florida, they said -- it went up to the
24 Florida Supreme Court, and everybody argued in the
25 Supreme Court whether or not it was legislative or

1 not, and no one argued, what is the consequence of
2 holding in this state that these decisions are
3 quasi-judicial, and the court -- as it took the
4 cases, it got it, and they ruled it wasn't quasi-
5 judicial -- it wasn't legislative, and therefore it
6 was quasi-judicial.

7 Unfortunately, that threw all these
8 decisions into this body of law that's grown up over
9 the years about what you have to have, and the
10 quasi-judicial is notice and opportunity to be heard,
11 no ex-parte communications, a hearing with a record,
12 not strict rules of evidence but the application of
13 the rules of evidence, cross examination and written
14 final determinations of the reasons for the
15 decision.

16 MR. PARDO: And final determination?

17 MR. SIEMON: That's what the law of
18 quasi-judicial is in Florida.

19 Now, over the last decade, we've all been
20 wrestling -- all been wrestling with it, and while a
21 couple of courts have said, "Well, it's -- in this
22 case, there were no final orders, no final
23 recommendation, but they gave notice, there was a
24 hearing, there was cross examination, there were no
25 ex-parte communications; we find that they complied

1 with the spirit of the law," and that -- and so it's
2 been revolving around this. And what the courts, I
3 believe, are doing is allowing us to come up with a
4 body of fair process that's fair, and that if we
5 think, in front of the Board of Architects, there has
6 to be greater latitude in terms of the qualifications
7 of the people who give testimony -- for example, if a
8 lay person gives opinion testimony, it is not
9 competent evidence under the quasi-judicial rules.
10 Well, I think, in the aesthetic arena, everybody's
11 opinion about whether something is compatible
12 probably has merit and ought to be considered.

13 So that's the law, and we're still,
14 unfortunately, working our way through it, and one of
15 the things we've been wrestling with is the
16 consequence of our strong opinion that the decisions
17 do qualify to be a quasi-judicial proceeding, is how
18 much of the free flow and the dynamic nature of the
19 Board of Adjustment's review of individual cases can
20 be accommodated.

21 One of the things is you probably need to
22 have a written record. That's probably something no
23 court is going to waive. That means you can't --
24 three or four people can't talk at one time, and
25 so -- but it's -- and again, I've written a Law

1 Review article, criticizing the characterization of
2 this as quasi-judicial. I wish that it was
3 otherwise, but I'm very confident that's what the law
4 today provides.

5 MR. MAYVILLE: Going back to the Board of
6 Architects for a second, have they had a chance to
7 see what are the proposed changes that you're looking
8 at?

9 MR. SIEMON: Not yet.

10 MR. RIEL: We actually --

11 MR. SIEMON: We were supposed to present
12 this morning.

13 MR. RIEL: We were supposed to present, but
14 we had to delay that because of the Staff members not
15 being able to be present, so --

16 MR. PARDO: You know, you've taken the
17 little things away from the Board of Architects to
18 give to the City Architect, to help them free -- and
19 the first thing I kept thinking is, the first
20 negative that, you know, you guys yourselves put on
21 here, which is, "May inhibit the free-flowing nature
22 of review," and, "Requires additional staffing to
23 prepare" -- I had asked the City Attorney, the
24 last time that we discussed this about the
25 quasi-judicial, about the issue of how the Board of

1 Architects has -- how many times it's been appealed,
2 which goes straight to the Board of Adjustment for
3 appeal, and then that decision can be appealed -- I
4 think it can be appealed to the City Commission, or
5 maybe it goes straight to the courts. But I think
6 she said that, that she knew of, historically, it was
7 either one or two times.

8 My question, Charlie, is if, on the one
9 hand, you're trying to help the Board of Architects
10 be able to be more efficient in what they're doing,
11 you're putting them in a position that is not
12 something that they can't get used to, but like you
13 said, one person speaking at a time -- you know, I
14 sat on that Board too many years to -- You're not --
15 The standards are not being raised in any way, shape
16 or form. What you're doing is, you're making it a
17 little more cumbersome.

18 Now, if the City Attorney said, "You know,
19 we've been successfully sued on this thing, we've got
20 to change it, because it must be changed to keep the
21 City out of harm's way," or, "The thing doesn't
22 work," but since the City Attorney isn't here, I
23 wanted to ask Cristina.

24 Cristina, do you remember the legal reason
25 that our City Attorney gave when Jorge Hernandez had

1 to resign from the Board? What happens now -- Is
2 that the same thing, if you sit on the Board of
3 Architects, then you can't practice in the Board
4 because -- you know, if you have projects? Because
5 that's one of the things that if you have your -- in
6 a quasi-judicial --

7 MR. KORGE: Well, I think -- I'm speaking
8 from my memory --

9 MR. PARDO: Okay.

10 MR. KORGE: -- not Cristina's, obviously. I
11 recall that, because he had a lot of projects coming
12 up, and you cannot sit and review your own projects,
13 it -- he felt that he really couldn't participate on
14 the Board, because it impeded -- impaired his
15 practice.

16 MR. PARDO: No, you couldn't even abstain.
17 You know --

18 MR. KORGE: I understand.

19 MR. PARDO: -- if it was once or twice, you
20 couldn't recuse yourself.

21 MR. KORGE: But that problem exists whether
22 we adopt the formal procedures or not. I don't think
23 that --

24 MR. PARDO: No, I think it had to do with
25 the formal procedures, and the problem is, you have

1 just lost almost your entire pool of non-paid Board
2 of Architects members. I'm very concerned about
3 that, because it is hard enough for the City to get
4 these very hard-working people to give --

5 MR. KORGE: I'm sorry, I don't understand
6 it. If there's a conflict of interest --

7 CHAIRWOMAN MORENO: It's a conflict of
8 interest.

9 MR. KORGE: -- it exists regardless of
10 whether there are formal procedures or it's a
11 free-for-all.

12 MR. PARDO: No, no --

13 MR. KORGE: There's still a conflict of
14 interest.

15 MR. STEFFENS: No, on the Board of
16 Architects, you step out of the room. There's not
17 that sort of formal relationship. So the members of
18 the Board of Architects, you know, might have one
19 project a week or something. If that condition was
20 taking place here at this Board, you know, if I had a
21 project that was once a month coming here, I couldn't
22 be on this Board.

23 MR. PARDO: And I remember Jorge said --

24 MR. STEFFENS: I would have to recuse
25 myself, and I think Felix has a good point here,

1 because the City of Miami Beach --

2 MR. KORGE: I'm sorry, let me ask you,
3 because you know this better than I do. If you have
4 one project a month coming to the Board of
5 Architects, and you remove yourself once a month --

6 MR. STEFFENS: But you don't remove
7 yourself for the whole meeting. See, here --

8 MR. KORGE: No, it's only for the -- Excuse
9 me for interrupting, but isn't it just for the
10 project?

11 CHAIRWOMAN MORENO: I think this needs to be
12 explored, but I think if the legal requirement is
13 that this be a quasi-judicial review and if, by
14 reason of that, there is a conflict of interest
15 problem, not making it a quasi-judicial review is
16 just hiding your head in the sand.

17 MR. SIEMON: Right. But I actually believe
18 that the issue of the conflict of interest is
19 actually more easily handled in the context of the
20 more formal process, because in a formal process you
21 disclose conflicts or appearances of conflicts, and
22 that helps. I mean, all the rules of fairness really
23 require is that everybody be treated fairly and that
24 they know the basis for why -- by which they're
25 judged, and the courts are, at least at this point,

1 giving this a fair amount of leeway.

2 I think the quasi-judicial is,
3 unfortunately, an issue. It is the by-product, not
4 of a bad consultant recommendation, but I think a
5 court decision which was -- just unfortunately the
6 court didn't focus on the consequence of its actions.
7 It only looked backwards in trying to decide, and of
8 course, they've tried to solve it with a committee,
9 and that, of course, didn't solve anything. But we
10 recognize it's an issue, and we've taken a cut at
11 trying to identify a process that the Board could
12 use.

13 We think that the rules in the Code would
14 protect the Board. We think they would have a fair
15 amount of flexibility in interpreting and applying
16 those rules, and certainly our recommendation is, as
17 I said, only grounded in our -- we've been asked the
18 question by the City Attorney and we've given the
19 answer that we think is dictated by the body of law.

20 The City can take -- and this is
21 something -- Felix, I remember -- or, excuse me,
22 Commissioner Pardo.

23 MR. PARDO: Felix. Come on.

24 MR. SIEMON: Liz said that -- and I will
25 say to you, that there is -- there's no black and

1 white rules in any land use law matter.

2 MR. STEFFENS: In any what?

3 MR. SIEMON: Land use law matter. In
4 criminal law, there are black letter laws and you've
5 got to comply. You can't kill people; there are no
6 ifs, ands or buts about that.

7 In land use law, it's application of
8 precedent. And given the unsettled nature of this,
9 there is a certain amount of flexibility that I think
10 local governments have, and I think that it could be
11 that the City Council -- Commission, under your --
12 under the recommendations of a variety of bodies,
13 could decide to take the risk. But that's a policy
14 choice they have to make, and of course, it's only
15 going to be a case that's very controversial, where
16 there are neighbors that are very unhappy with the
17 outcome, and it's at that point when, you know,
18 you're going to be most vulnerable.

19 MR. STEFFENS: I think when we're going to
20 be most vulnerable is if the Board actually decides
21 to not grant Mediterranean bonuses, and if they're
22 not in a quasi-judicial setting and they say, "No,
23 you don't get your Mediterranean bonuses," all these
24 developers -- If you asked all the attorneys --

25 MR. SIEMON: Someone's going to be all over

1 us.

2 CHAIRWOMAN MORENO: Yes.

3 MR. STEFFENS: -- that were sitting in this
4 audience, all those attorneys will say, "I think a
5 Mediterranean bonus is as a right. I don't think of
6 it as a bonus." And when one day the Board says,
7 "No, you don't get your bonuses," there's going to be
8 lawsuits here.

9 CHAIRWOMAN MORENO: And the problem, I
10 think, is if you --

11 MR. STEFFENS: And if the process isn't
12 established --

13 CHAIRWOMAN MORENO: Yeah.

14 MR. STEFFENS: -- then the City is open
15 to --

16 MR. SIEMON: There's no question.

17 CHAIRWOMAN MORENO: And if this is the
18 requirement, if it's a quasi-judicial requirement,
19 then you're exposing those Board members to liability
20 if they have ex-parte communications, because they
21 weren't aware that they couldn't have them; if they,
22 you know, violate the ethics -- the conflict of
23 interest standards, because they weren't aware that
24 they applied. I don't think you should hide your
25 head in the sand. Once you know that this is

1 required, you've got to go forward and do it right.

2 MR. SIEMON: Because they are what they are.

3 No label that we put on them --

4 CHAIRWOMAN MORENO: Yeah.

5 MR. SIEMON: -- changed them. When they
6 exercise that authority, if a court of competent
7 jurisdiction determines that it was an exercise of
8 the police power in what was a quasi-judicial
9 context, they are subject to all those rules, whether
10 we put in it the Code or not.

11 CHAIRWOMAN MORENO: That's right.

12 MR. PARDO: Yeah, but Charlie, I remember
13 that when Jorge, you know, said publicly here that he
14 was going to have to go off the Board, which he did,
15 because he may have a couple projects coming up, you
16 know, and he wouldn't be given the ability of
17 stepping out of the room, most of the architects that
18 sit on the Board of Architects, if you would ask them
19 how many projects, you know, they do in a year that
20 comes before the same Board of Architects, I mean,
21 that's -- you know, we've taken applying their
22 profession and now putting them in a position like if
23 they were asking for a special consideration because
24 they sit on the Board, which is absurd.

25 If you sit on a -- I'm not -- I'm just

1 saying that, you know, I feel uncomfortable with
2 this, simply because this is an example -- There are
3 two things that I -- The two negatives, I think, that
4 you highlighted here are very important. The
5 negative about, can this process inhibit, you know,
6 simply the approval of these architects telling
7 another architect, you know, "This is good enough,
8 proceed," and signing off on it, having stenographers
9 there, you know, keeping a full record of an
10 aesthetic issue, when they start -- when they're
11 pointing at a plan and they're discussing things that
12 cannot be recorded by the stenographer, that can't be
13 recorded any way, it seems almost like -- you know,
14 like it doesn't work.

15 Now, if you can say, well, the granting of
16 Mediterranean bonuses by the Board of Architects
17 should be a separate quasi-judicial, I'm all for
18 that, because of what Michael said with, you know,
19 the attorneys appealing, especially a negative
20 decision. I don't have a problem with that. But the
21 day-to-day, mundane type of thing, and I don't mean
22 little things, I mean, you know, an addition or this
23 or that, the kind of aesthetic review that they do,
24 number one, it's going to slow them down to a snail's
25 pace, and then it's going to create more bureaucracy

1 and expense for the citizens, whether it's a
2 corporate or, you know, a resident citizen, and then
3 the one thing that's not here as the negative is the
4 potential effect, the same thing that happened to
5 Jorge Hernandez, sitting on this Board.

6 I would like to know from our City Attorney
7 if we're going to have the same problem, and every
8 year, if you ask Dennis Smith, it becomes harder and
9 harder to get qualified architects to sit on the
10 board. The pay is not great, and it's a week -- you
11 know, it's not a monthly meeting, it's a weekly
12 meeting, and it usually lasts, you know, hours. And
13 I'm just afraid that we may be hurting ourselves. I
14 really wish that this were reviewed and run by the
15 Board of Architects, you know, run through the Board
16 of Architects and --

17 MR. SIEMON: It's going to be.

18 MR. PARDO: And I really agree with the
19 utilization of the quasi-judicial, especially for the
20 granting of -- and maybe specifically for the
21 granting of the Mediterranean bonuses.

22 MR. MAYVILLE: Would you be willing to table
23 this for a week and allow us to --

24 MR. SIEMON: Oh, sure. I mean, I just -- We
25 were trying to get to the bottom of the page. I said

1 earlier that I thought the first four, we could
2 probably talk through, I recognized.

3 I do want to -- I don't know the Jorge
4 Hernandez, so I don't know enough of the facts, but,
5 you know, whether -- they are subject to the sunshine
6 in any event, because they are a body that is making
7 decisions involving the signatures of two or more
8 people.

9 MR. PARDO: Right.

10 MR. SIEMON: And I believe that that's
11 probably where the abstention rule has come into
12 play. The conflict between Chapter 112 and 286 puts
13 people who sit on collegial bodies in a fix, because
14 you're really not supposed to abstain unless you have
15 a conflict of interest, and the requirement under the
16 code of ethics is that you disclose that conflict,
17 so it's -- that's a very painful conundrum.

18 CHAIRWOMAN MORENO: You know, there was
19 some discussion, and I don't remember the whole of
20 it, but it had to do with the number of times that
21 you had a conflict.

22 MR. PARDO: Exactly. Exactly.

23 CHAIRWOMAN MORENO: It wasn't just that you
24 had a conflict and disclosed it. It was the number
25 of times that you had a conflict. And I don't

1 remember the detail of it.

2 MR. PARDO: Right, and that was my concern.

3 The City Attorney said, you know, "Well, how many
4 times do you think, you know, you're -- "

5 "Well, I've got two projects now that I know
6 will have to come before the Planning Board," if
7 memory serves me right. You could either ask Jorge
8 or the City Attorney.

9 But the question here now is, you're talking
10 about, you know, architects that supposedly are
11 supposed to be very aware of the City, and therefore,
12 practice in the City and obviously are going to have
13 projects in the City, and all of a sudden, if you
14 have this pool, you're not going to have enough to --
15 you don't need a quorum there, but you're not going
16 to be -- you're not going to have enough to be able
17 to do what they do.

18 MR. SIEMON: I am aware of a number of
19 communities that have similar design provisions,
20 where they have a larger pool of people and they
21 simply organize agendas and the board that meets
22 every week is a different board. And so, if I'm a
23 professional, I schedule my stuff in the third week
24 of the month, when I know I don't sit. And with a
25 formal process, that has -- I don't know, I can't

1 remember whether it's ever been challenged. I've
2 seen the opinion of counsel in that particular -- in
3 one particular example I recall, that that was
4 acceptable, and my own opinion is that the courts
5 aren't rigid, aren't dogmatically rigid about, in
6 this context, if they think that you've gone a
7 reasonable direction toward trying to balance the
8 competing interests.

9 I mean, I have argued to a court,
10 unsuccessfully, since neither was decided, that it is
11 absurd to suggest that a City Commission, elected by
12 their constituents, can play the role of an
13 independent tribunal when their citizens are at the
14 stand. I mean, that's a fiction in its own. But
15 that's a requirement.

16 MR. PARDO: Is there --

17 MR. SIEMON: And so I'm probably
18 philosophically on your side of this table.

19 MR. PARDO: Charlie, I'm just, you know --

20 MR. SIEMON: Yeah.

21 MR. PARDO: You know what my concerns are,
22 but is there also any way that you could see the
23 possibility of bifurcating the Mediterranean bonus
24 component? Because that's where people make hard
25 dollars, on something like this.

1 MR. SIEMON: I want to think about that. It
2 is a particularly problematic concern that we have,
3 but I'm -- and my thought process, reacting to that
4 when you mentioned it earlier, was that from a legal
5 perspective, I think it's just as obvious that any of
6 these decisions are quasi-judicial as it is for the
7 Mediterranean bonus, and that we might actually shoot
8 ourselves in the foot.

9 MR. KORGE: I have a real problem not
10 complying with the law.

11 CHAIRWOMAN MORENO: I do, too.

12 MR. KORGE: I just -- I think all those
13 concerns are very legitimate. Maybe they weren't
14 presented adequately to the Supreme Court, but here
15 we are.

16 CHAIRWOMAN MORENO: This is the law.

17 MR. KORGE: This is the law and, you know --

18 MR. SIEMON: But I do take away from the
19 conversation today that we probably have not done
20 enough in what we've done so far about thinking
21 creatively of how we could help make this particular
22 unique institution accommodate the rules, but yet
23 still try to maintain as much of their process,
24 because what we've done, frankly, is tried to
25 routinize the process across the board, and I think

1 that this helpful dialogue tonight has suggested to
2 me that I ought to reconsider that particular issue,
3 because this is really a unique matter.

4 MR. KORGE: I'd like to move that we --

5 MR. STEFFENS: I have a -- before you
6 move --

7 MR. KORGE: Oh, yeah, sure.

8 MR. STEFFENS: -- I have a couple comments.

9 As a former Board of Architects member, I
10 have been pushing for the formalization of the
11 process of the Board of Architects for years, since I
12 left the Board. I think this is a step in the
13 correct direction. I don't necessarily agree with
14 the negative statement that it may inhibit the
15 free-flowing nature of reviews. I've served on the
16 Miami Beach Design Review Board for a while, and at
17 the Design Review Board on Miami Beach, there's quite
18 a free flow of ideas, and that's a quasi-judicial
19 board setting.

20 Felix's comment about the conflict of
21 interest, I think, though, is valid. But I think
22 it's also a City policy and an interpretation. Miami
23 Beach has erred on the side of caution and said that
24 the board members there are allowed one or two, I
25 believe -- it's been a couple years -- one or two

1 conflicts of interest, or one or two recusals from
2 the board, and then they have to get off the board,
3 which has severely limited their pool of architects
4 to choose from. I mean, they go all over --

5 MR. KORGE: The suggestion --

6 CHAIRWOMAN MORENO: I think that that was
7 the State. That's the State, because I remember when
8 we were looking to fill the board appointment. There
9 was an architect who talked to me, and I said,
10 "Before you apply, you'd better check with the ethics
11 commission," and he checked with the State of Florida
12 and they came back to him and said, "If you have more
13 than, you know, one or two projects a year, you
14 shouldn't be on this board."

15 MR. STEFFENS: Well, that's something we
16 need to check.

17 MR. KORGE: What about your suggestion that
18 there be a board, but let's say it's a ten-member
19 board but only seven sit at any one time, and they
20 rotate for each of the hearings, so that if you have
21 a conflict, you're not appearing before the board
22 during the period that you're sitting.

23 CHAIRWOMAN MORENO: I think, before we
24 discuss this further, you need to explore the ethics
25 issue.

1 MR. SIEMON: I need to find out what the --

2 CHAIRWOMAN MORENO: Yeah.

3 MR. SIEMON: -- what the issue is.

4 I know, for example, the chairman of what --

5 Our equivalent board in Boca is the Community

6 Appearance Board, and the chairman of that --

7 long-term chairman of that board, I assure you, has

8 more than three or four items a year which go before

9 that, and -- but I'm not going to go any further

10 until I've found out. I have -- I mean, I'm just not

11 going to speculate --

12 CHAIRWOMAN MORENO: Yes.

13 MR. SIEMON: -- but I think we should --

14 what I'd like to leave you with is that in the next,

15 whenever, two weeks before we get together again,

16 Wendy and I will noodle some on ways that we might be

17 able to address this, and I'll find out from Liz what

18 the specific issue was in Jorge's situation.

19 MR. PARDO: So you know, when the Dade

20 County passed the ordinance about registering

21 lobbyists, all of a sudden one of the attorneys for

22 Miami-Dade County said, "Oh, and architects are

23 lobbyists, too, for their own projects." So they

24 were filling -- you know, we were filling out forms

25 for any time we were going to step into anyplace, and

1 we were simply performing our own service, you know,
2 professional service.

3 Finally, after the City Attorney, you know,
4 went after them and after them and after them, they
5 were able to get an exception, and that was one of
6 the exceptions. Maybe, you know, that's one of the
7 things that you could research.

8 MR. STEFFENS: But we still have to fill out
9 the lobbyist forms in Coral Gables.

10 MR. KORGE: Yeah, but this is different.

11 MR. STEFFENS: Everywhere.

12 MR. KORGE: This is not an ordinance
13 imposing a requirement because the Commission thinks
14 it's better, more transparent government or whatever.
15 This is a law imposed by the judiciary. The
16 Commission doesn't have the power to overrule the
17 judicial rulings. So we're -- I think we're stuck
18 with this.

19 What we don't know and we're not prepared to
20 adopt are the specifics of it. So what I'd like to
21 move is that we adopt the recommendation establishing
22 rules of procedure for major discretionary reviews by
23 the Board of Architects, subject to review of the
24 actual details of those rules, and you're going to
25 come back to us with some constructive suggestions on

1 how to do this in the most efficient and
2 user-friendly way.

3 MR. SIEMON: And that they -- My presumption
4 is that we ought to see if we can tailor a set of
5 rules that specifically meet the Board of Architects'
6 needs, as opposed to the standard size set of rules
7 that we've applied to everybody else.

8 MR. PARDO: Charlie, all these motions that
9 Tom's made tonight, the question I have is, you know,
10 when do we see -- because, you know, we're still
11 proceeding with pages and pages of this stuff, and,
12 you know, it gets to the point where, you know,
13 you're cross-eyed, looking at this thing.

14 MR. SIEMON: Well, we're not going to --
15 We're not going to take this working draft document
16 and convert it into a proposed draft until we finish
17 these work sessions with you all.

18 We are, where we feel fairly comfortable
19 you've told us something clearly, such as, "We're not
20 going to make the lot split a matter of right," we've
21 gone ahead and prepared the text amendments in our
22 office, because we just don't want to do them all at
23 the last moment. But we're not going to republish it
24 until we finish these, and then we're going to
25 republish it to you. We're going to republish it in

1 a form that's not six inches thick.

2 MR. PARDO: So we'll be able -- you know,
3 not to lose the train of thought, we'll be able then
4 to look at this and then finally say, "Okay, this is
5 the way we like it" --

6 MR. SIEMON: (Nods head).

7 CHAIRWOMAN MORENO: Of course.

8 MR. PARDO: -- the next time. You know, we
9 won't go two times on each one of these things.

10 MR. STEFFENS: Hopefully not.

11 MR. MAYVILLE: Madam Chair, do we want to
12 table this item until our next session? Is that what
13 we agreed on?

14 MR. STEFFENS: Tom made a motion. I'll
15 second it.

16 MR. KORGE: I move to adopt the
17 recommendation of establishing rules of procedure for
18 major discretionary reviews by the Board, but not the
19 specific procedures, because I think Charlie wants to
20 come back to us with the details of those, but I
21 think what we're telling him is, we recognize that we
22 have to comply with the law. You've told us that,
23 the City Attorney has told us that. Now, we agree
24 we're going to comply with the law. Please move
25 forward and give us the detailed recommendations,

1 which we'll then vote on when that comes up.

2 MR. MAYVILLE: Can we agree that you all see
3 the Board of Architects before you come back, you
4 know, at least get their input?

5 MR. KORGE: Oh, yeah.

6 MR. SIEMON: Yeah.

7 MR. KORGE: I mean, I'm sorry, I kind of
8 assumed that they would, you know, have input on
9 this, because this really affects them.

10 MR. SIEMON: It would have been done today,
11 except for the absence of some Staff. I'm looking
12 forward enthusiastically to discussing -- actually, I
13 think now that I have some direction, it might even
14 be a little more pleasant than it would have
15 otherwise been.

16 CHAIRWOMAN MORENO: Okay. Do we have a
17 second?

18 MR. STEFFENS: Me.

19 CHAIRWOMAN MORENO: Okay. Again, Mr. Korge.
20 Mr. Steffens seconds. Call the vote.

21 MS. MENENDEZ-DURAN: Michael Steffens?

22 MR. STEFFENS: Yes.

23 MS. MENENDEZ-DURAN: Tony Gonzalez?

24 MR. GONZALEZ: Yes.

25 MS. MENENDEZ-DURAN: Tom Korge?

1 MR. KORGE: Yes.

2 MS. MENENDEZ-DURAN: Bill Mayville?

3 MR. MAYVILLE: Yes.

4 MS. MENENDEZ-DURAN: Felix Pardo?

5 MR. PARDO: Yes.

6 MS. MENENDEZ-DURAN: Cristina Moreno?

7 CHAIRWOMAN MORENO: Yes.

8 Meeting is adjourned.

9 MR. SIEMON: Thank you very much, everyone.

10 I appreciate your stamina.

11 (Thereupon, the meeting was adjourned at

12 8:53 p.m.)

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CERTIFICATE

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STATE OF FLORIDA:

SS.

COUNTY OF MIAMI-DADE:

I, JOAN L. BAILEY, Registered Diplomat
Reporter, and a Notary Public for the State of
Florida at Large, do hereby certify that I was
authorized to and did stenographically report the
foregoing proceedings and that the transcript is a
true and complete record of my stenographic notes.

DATED this 23rd day of November, 2004.

JOAN L. BAILEY, RDR

